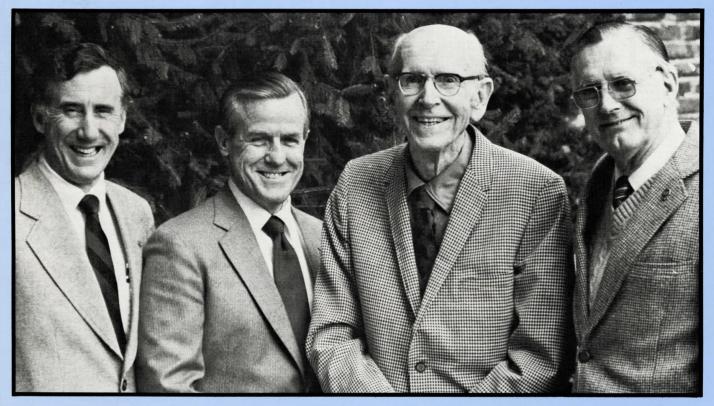
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Volume 18 May 1983 Number 5

Virginia Nown & City



Managers Celebrate in Staunton

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- -VML Holds Congressional Breakfast
- -Conflict Management







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On the Cover:

Three former Staunton city managers meet with Gene McCombs, the current manager. From left: Mc-Combs; Edward Martin; Willard Day; and C. M. Moyer. See the story on page 12.

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People



Kathy Lynn McIntyre is the League's new secretary. In addition to her duties with the VML, she will be working with many of the affiliate organizations and attending their annual conferences. A native of Richmond, Kathy attended Radford University and graduated from The Braxton School, a business school in Richmond.

Kaufman Named

Richard B. Kaufman was appointed Blacksburg town attorney. He was former assistant city attorney for the City of Roanoke. Kaufman succeeds Thomas Hudson.

Smith Accepted

Virginia Beach City Clerk Ruth Hodges Smith, who is a Certified Municipal Clerk (CMC), has been accepted into the Academy for Advanced Education of the International Institute of Municipal Clerks. The academy is a professional body of municipal clerks who have continued their high level of educational achievement beyond the attainment of the prestigious Certified Municipal Clerk award.

Smith became city clerk/clerk of council in 1979. She was previously employed with the Tidewater Virginia Development Council and the MacArthur Memorial Foundation. In 1982-83, she was president of the Virginia Municipal Clerk's Association.

Parrish Honored

Harry Parrish, former Manassas mayor and councilman, was honored at a special ceremony during a Manassas city council meeting March 14. Parrish served Manassas city government 30 years, 12 as a councilman and 18 as mayor.

During the ceremony a portrait painted by Nancy Hersch, a local artist, was unveiled. It will hang in the council chambers with the portrait of Harry Davis, another longtime Manassas mayor. The two mayors served the city 60 out of the 110 years since Manassas was granted its charter.



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A Good Week For Local Governments In The U.S. Supreme Court

By Howard W. Dobbins, General Counsel

Earlier this year within the space of one week, the Supreme Court of the United States announced opinions of particular interest to local governments: one upholding an executive order of the mayor of Boston requiring all construction projects funded in whole or in part by city funds to be performed by a work force of at least half residents of that city; the second holding that the extension of the Age Discrimination Employment Act to cover state and local governments does not directly impair the states' ability to structure internal operations in areas of traditional governmental functions and thus does not violate the Tenth Amendment; and the third determining that a suit under 42 USC Section 1983 against a police officer may not be maintained because of the general rule of absolute immunity for witnesses.

The Commerce Clause of the U.S. Constitution challenges to the Boston ordinance were rejected by our highest court with more than normal unanimity in White v. Massachusetts Council of Construction Employers (announced February 28, 1983, 50 U.S. L.W. 4211, with only partial dissents by Justices Blackmun and White.) In White, the court reversed the Supreme Judicial Court of Massachusetts which earlier decided the Boston order was an unconstitutional violation of the Commerce Clause. Relying on the rule which it articulated in Hughes v. Alexandria Scrap Corp., 426 U.S. 794 (1976), the court, in an opinion by Justice Rehnquist, held that when, as in the case of Boston, a state or local government enters a market as a participant as distinguished from a regulator, and expends its own funds, it is not subject to the restraints of the Commerce Clause even if some of the funds used for the projects affected come from federal sources, such as block grants and economic development grants.

In Equal Opportunity Employment Commission v. Wyoming, decided March 2, 1983, 52 U.S. L.W., 4219, the U.S. Supreme Court was called upon to review a decision of a district court in Wyoming, 514 F. Suppl. 595, which dismissed a suit

brought by the EEOC alleging violation of the Age Discrimination and Employment Act of 1967 (the 'Act') because a supervisor for the Wyoming Game and Fish Department was involuntarily retired at age 55 pursuant to a Wyoming statute. The District Court held that the Wvoming law violated the doctrine of Tenth Amendment immunity articulated in National League of Cities v. Usury, 426, U.S. 833, which struck down Congress' attempt to extend the wage and hour provisions of the Fair Labor Standards Act to state and local governments.

In reversing and remanding, by a five to four majority, the Supreme Court held that the Tenth Amendment limitation on Congress' power specified in National League of Cities is a functional doctrine, "whose ultimate purpose is not to create a sacred province of state autonomy, but to ensure that the unique benefits of a federal system in which the states enjoy a 'separate and independent existence' (citations omitted). not to be lost through undue federal interference in certain core state functions." Thus, because of the finding that the Act does not

"directly impair" the state's ability to 'structure interval operations in the areas of traditional governmental functions,' the court concluded that *National League of Cities* was inapplicable. The majority opinion reasoned that managing state parks is a traditional state function but the degree of federal intrusion in this case was sufficiently less serious than in *National League of Cities* and therefore made it unnecessary for the court to override Congress' express choice to extend its regulatory authority to the states.

The following week on March 7. the Supreme Court issued its opinion in Briscoe and Others v. LaHue and Hunley, 51 U.S. L.W. 4247. Briscoe. one of the petitioners, was convicted in the state court for burglarizing a house trailer. He then filed a Section 1983 complaint against LaHue, a member of the Bloomington, Indiana police department, alleging that LaHue violated his constitutional right to due process by committing perjury in the criminal proceedings leading to his conviction. LaHue testified that in his opinion Briscoe was one of no more

(Continued, page 14)



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VML's Congressional Breakfast Pennino Wants Localities Exempted From Antitrust

About 40 local officials attended the VML Congressional Breakfast March 8. Sens. John Warner and Paul Trible attended as well as Congressman Norman Sissisky. Congressmen James R. Olin and J. Kenneth Robinson were represented by their legislative aides.

Transit funding, payments in lieu of taxes and community development block grants were discussed but antitrust suits filed against local governments dominated the breakfast conversation.

Martha Pennino, vice chairman of the Fairfax County Board of Supervisors and a member of the League executive committee, told members of Congress it is vital that federal legislation be enacted to give local governments the same exemption from antitrust suits that states have.

In January 1982 the United States Supreme Court issued an opinion in *Community Communications Inc.* v. *City of Boulder* which expanded the potential exposure of local governments and their officials for claims under federal antitrust laws. The *Boulder* decision and the Supreme Court's earlier *City of Lafayette* decision shattered the long-standing assumption that local governments share the states' exemption from federal antitrust laws.

Pennino said the *Boulder* opinion left some very significant questions unanswered. "Will treble damages be levied against a local government found to be in violation of antitrust laws?" and "Are local governments subject to the 'active state supervision' requirement?" she asked.

The latter issue, Pennino said, has particularly repugnant overtones for local governments in a Dil-Ion Rule state such as Virginia, where local governments are already subject to close scrutiny by the state. Since the Boulder decision a little more than a year ago, suits have been filed against local governments on the following issues: exercise of zoning powers; provision of water, sewer and electricity; trash collection; landfill operations; mass transit; licensing of taxicabs and plumbers; operation of airports; sludge disposal; procurement; public works construction; public health regulation; operation of parking lots; and operation of recreational facilities. In the District of Columbia prisoners in the city jail



Sen. John Warner, center, greets Portsmouth Councilman Jack Barnes. VML President Francis T. West, right, looks on.



Sen. Paul Trible, left, talks to Manassas Park officials following the breakfast.

filed an antitrust suit against the city alleging price fixing of telephone calls from the prison, and in Fairfax County an antitrust suit has been filed challenging the award of a cafeteria concession.

Pennino explained the League's concern with the application of federal antitrust laws to local governments "extends far beyond the issue of ultimately having to pay damages."

She illustrated the point by citing the antitrust suit currently pending against the City of Richmond. "The real issues in the suit concern zoning actions taken by the city and challenged by a hotel chain. Developers of the hotel are seeking treble damages of approximately \$250 million for alleged antitrust violations—an amount equal to the city's annual budget.

"In addition, plaintiffs have named the former mayor, the city manager, the planning director and the city attorney as individual defendants, which is an action calculated to have an oppressively intimidating effect on those individuals as they perform their official duties.

"Perhaps the most alarming fact about the case, however-and this seems to be relatively typical of antitrust cases—is in the year in which the case has been pending, Richmond has spent \$600,000 in attorney fees to defend the suit, and discovery of antitrust has not even commenced! The only issue involved so far is what attorneys may represent which defendants.

Pennino insisted there has to be a better way. A blanket exemption for local governments is one way, she suggested, or if a blanket exemption is not feasible, at least, "federal legislation should be passed" to clarify certain matters and ensure that treble damages provisions of federal antitrust laws do not apply to local governments.

"Legislation should ensure that state legislation exempting local governments in specific subject matter areas need not contain an active 'state supervision' requirement, particularly in Dillon Rule states where all local authority is state-given in the first instance," she said.

In response to the League's position, both senators acknowledged Pennino's request and said they were aware of the problems surrounding the *Boulder* decision.

VIRGINIA TOWN AND CITY



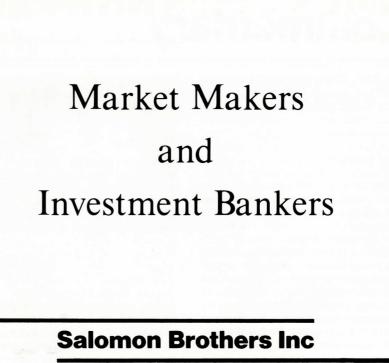
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Surplus Equipment City of Danville. Sealed bids will be received until 11 a.m. July 6, 1983 for the sale of the following surplus equipment. Bids will be publicly opened and read at that time. The city is making no guarantees as to the quality of the equipment, however, equipment may be seen and inspected at Danville's Northside Water Pollution Control Plant, 460 Williamson Road, Danville, VA 24540, Monday through Friday, between 9 a.m. and 4 p.m.

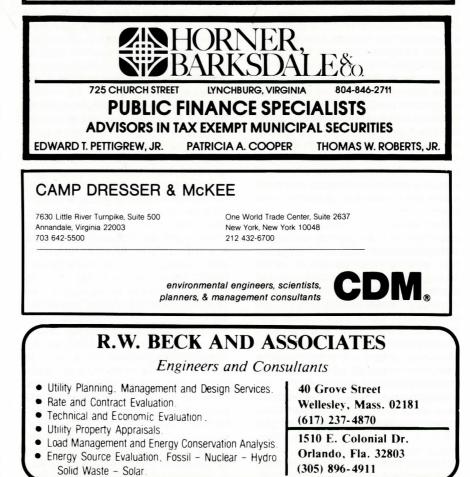
- 1. One 5-foot-3-inch diameter by 10foot long door-Oliver Model 6F2 (special) Serial Number 40772-10L, left hand drum, vacuum filter and accessories in good working condition.
- Two Model P3400 Super D Canter, Type PR164/5 Serial Numbers 74 - P3400 - 163 and 74 - P3400 -184 Penwalt Sharples Centrifuges. Both units in excellent condition; one has carbide tipped conveyor flights.
- 3. One Model MS 2500 133 74 Virotrol Air Scrubber and accessories manufactured by Virotrol Corporation, in good working condition.

Bids must be valid 30 days from date of opening. Award of the bid will be determined within this 30day period. Payment must be made to the City of Danville by cashier's check within 10 days of the date of the award. A bid bond or cashier's check in the amount of \$1,000 shall accompany all bids. Mail bids to: City of Danville, Purchasing Department, P.O. Box 3300, Danville, VA 24543 in a sealed envelope. Mark on outside of envelope "Sealed Bid-Surplus Wastewater Equipment"-Bids Due 11 a.m. July 6, 1983. The City of Danville reserves the right to accept or reject any or all bids or to accept any portion that will be in the best interest of the city and waive all formalities.

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VIRGINIA TOWN AND CITY

Commentary

Conflict: Keeping It Under Control

By Russ Linden

City, county and town managers are used to dealing with conflict. Local governments are not homogeneous entities in which everyone shares the same goals, interests and values.

Department heads seeking more for their budgets, citizens complaining about service levels, human service agencies making claims on available funds-these are facts of life for public officials, and most try to manage conflict without loss of control of the issue. Problems typically arise when the issue gets out of administrative control, when lawsuits are filed or when special interest groups try to turn issues into political causes to advance their own positions. At best, such activities can be a healthy exercise of participation in the decision-making process; at worst, they can require excessive amounts of time and cost thousands of dollars. Annexation suits in Virginia have cost \$500,000 to \$1 million. When they stretch on for years, as did the Harrisonburg-Rockingham dispute, the figure can approach \$2 million or more.

Costs of litigation and politicking by special interest groups go beyond actual dollars spent and time used. Deep distrust between and within localities grows, a history of winners and losers begins and decisions are made that all parties may come to regret.

Prospects for conflict management are not all gloomy, however. With the increased level of litigation and special interest group activities, governments are beginning to develop new methods for managing conflict. These methods are creative, involving the concerned parties about the issue and reducing the likelihood that the issue will go to court, where all administrative control is lost. What are some of these emerging approaches?

Negotiated Investment Strategies. Negotiation, a common technique in labor-management dis-

Mr. Linden is affiliated with the Institute of Government at the University of Virginia. putes, has recently been tried in the public sector to manage increasing claims on shrinking public funds. Connecticut Governor William O'Neill adopted the negotiated investment strategy approach to augment his state's budget process for block grants. The state's social services block grant was selected for this process because of its complexity, flexibility and scope.

The service providers that anticipated being funded through the grant were divided into three negotiating teams: one represented eligible state agencies, a second was made up of municipalities and the third represented nonprofit service providers. The three teams met with the assistance of facilitators over a five-month period, first gathering information, then identifying their desired outcome of the process and selecting criteria to guide their decisions, and finally recommending allocations. Connecticut's 1983-84 budget reflects the final agreement, which was signed by the three negotiating teams.

Environmental Mediation. Another type of negotiation is being offered by groups like the Institute of Environmental Negotiation at the University of Virginia. One of a handful of similar organizations in the country, the institute offers third-party mediation to citizen groups, organizations and individuals in disputes covering diverse environmental areas such as annexation, hazardous substances, scenic easement and parking lot expansion plans. While there is no strict formula used by the institute, its typical mediation process includes collecting data, discussing the situation with key participants, identifying issues and interests and searching for acceptable agreements. Experience to date suggests that trained thirdparty mediators can help depersonalize conflicts, refocus the debate and enhance the possibilities for effective solutions.

Minitrials. Disputes between businesses and between business and government are a growing concern to managers because of their cost

and the loss of time and control that occurs when disputes lead to courtroom confrontation. One successful approach is the minitrial, a oneor two-day "trial" during which each side presents its best case to the other side and to an "advisor" (not a judge, but rather someone who has been chosen because of particular expertise). Lawyers are involved, but unlike most court suits, those who run the organization also are involved and ultimately make the decisions on a settlement. If the opposing managers cannot reach an agreement after two days of witnesses and rebuttals, then the thirdparty advisor issues a non-binding opinion based on his assessment of what a court of law would rule.

In more than a dozen minitrials to date, only one has gone to the advisor; the remainder were settled quickly by the managers involved. TRW Inc. was involved in the first minitrials in 1977 and has used them twice since. The company estimates it saved millions of dollars in legal costs and had the advantages of being able to conduct "trials" without sensitive information being aired in public while also maintaining management control of the decision-making process. Minitrials have been used by federal agencies as well as businesses.

Negotiated investment strategies, environmental mediation and minitrials are only three approaches being tried. Law students at Harvard and elsewhere are now being offered courses in alternatives to litigation. At the University of Virginia two engineering professors recently began the Center for Interactive Management, where groups are given a variety of methodologies for structured involvement and decision-making. Centers for conflict resolution providing instruction in the art of negotiation and conflict management exist throughout the country.

In a time of scarce resources, it is in everyone's interest to pursue creative and efficient means for managing conflict.

VIRGINIA TOWN AND CITY

About the Author

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Need Information? Ask Your Librarian

By Coral Gills

Municipal reference libraries can be the best source of information for work assignments and save time for elected officials and staff.

Finding Henrico County's Municipal Reference Library in the administration building of the Henrico Government Center isn't easy. The tiny branch of the Henrico Public Library system occupies less than 700 square feet, but it's the place where most county employees and elected officials go when they need hard-to-find information.

Besides serving as a repository for Henrico government documents, the library is a reference and information center for employees, and library staff save departments time by researching information for them. It is a working library for county government similar to special corporate libraries maintained by large business organizations.

Before the library was established in February 1979, several departments assembled substantial collections of books, pamphlets and magazines for their own use. When the municipal library opened these collections were transferred, consolidated and made available to staff and elected officials, avoiding expensive duplication of materials and augmenting specialized information gathered by the library.

Now in only its fourth year of operation, the municipal library is an integral part of county government. With only one librarian and an assistant, the atmosphere is informal and the relationship between patrons and staff is easygoing and relaxed. Virtually every county agency and personnel from top elected officials and management to part-timers use the library.

The success or failure of a municipal library depends to a large extent on its staff. Its value depends on the initiative of the librarian in

About the Author



Henrico staff uses the library. From left: Bruce Kimble, assistant county attorney; Joseph Rapisarda, county attorney; and Tom Owdom, municipal reference librarian.

distributing information on hand and in anticipating needs.

Municipal Reference Librarian Thomas L. Owdom says, 'Timesaving is our most important function—every county department uses us. We use selective dissemination of information, review and route publications and articles and keep a profile of people in all departments. We know what they're interested in and routinely send them current materials. What makes us really different is that we have a law library—most municipal libraries don't."

The library, near the courts building, has among its legal holdings federal, state and local codes, federal and state cases, the Virginia Reports, the Code of Federal Regulations, the U.S. Code Annotated and supporting publications.

The county attorney's office is a heavy library user and regularly requests copies of cases. According to County Attorney Joseph P. Rapisarda Jr., "The most important features of the municipal library are Tom Owdom and the convenient location. Tom does things a law student or clerk would do. We have in essence a legally-trained librarian who does citations of authority and looks up references. If you tell him an area of the law, he can often find it, saving us search time. At least an hour of my time is saved every day -there's no question about it."

Assistant County Attorney Bruce A. Kimble agrees. "Tom provides an ongoing advisory function and is aware of helpful publications. The library doesn't have the National Reporter system, but it is comprehensive in terms of Virginia law."

Fairfield District Supervisor John Waldrop also values the county's law library. "I use the library frequently and am very enthusiastic about it. I think it is a real benefit to Henrico, especially with the service it provides courts and lawyers. It is self-sustaining and pays its own way, and I think it's a very good thing." The library's primary source of revenue is from civil court fines.

In addition to legal materials and the basic reference collection, library documents include a complete set of annual reports, current and retrospective statistical files, historical materials dealing with Henrico and the county manager form of government, and planning, zoning and census information. The library houses Virginia state and federal documents and materials and indexes relating to the administration and operation of local government.

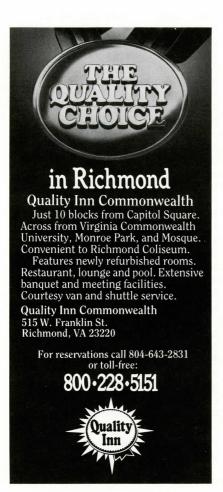
More than 100 periodicals and newsletters arrive at the library each month, including *The Federal Register, The Congressional Record, The National Journal, The Congressional Quarterly Weekly Report and Nation's Cities Weekly.* In addition, publications of county departments and agencies that include every aspect of municipal government are collected and a list

Ms. Gills is assistant public information officer for Henrico County.





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(Library, from page 9)

of new acquisitions is routed to county departments every six weeks.

Although the library doesn't receive many publications about other cities and counties, thousands of municipal, state and federal documents kept on microfiche at Virginia Commonwealth University's library are listed in the Index to Current Urban Documents. In this way, Henrico County staff can easily find annual reports, budgets and other important studies of cities and counties of comparable size with similar problems.

This is appreciated by Henrico Chairman David C. Kaechele. "In addition to the access offered staff and supervisors because of its convenient location, the library performs a very valuable, indirect service by providing staff with statistics and studies for compiling reports requested by supervisors."

The convenience and timesaving aspects are also important to Varina District Supervisor Anthony P. Mehfoud. "...It just saves so much time. When you have the wealth of information that is readily available in the government center, it's so much easier and quicker to make a good, substantial decision and not a haphazard one." Bibliographic control of county documents is almost nonexistent, but, along with reference work, the municipal library takes responsibility for providing control of Henrico's government publications.

A list of publications of the departments is an effective checklist of official county documents. But just having a list of titles is not enough; officials need to know the content of the documents. A great deal of historical and statistical data is hidden in those pages and the librarian must take the time to read through them and become familiar with their content. Information ranging from crime prevention and airport noise to the history of various departments is often extracted for staff studies.

Staff furthering their education find valuable resources here, too. Those in planning classes or studying for their master of public administration degree invariably gravitate to the small room.

Whenever information isn't easily available in printed form, the knowledge of county employees is available. Owdom keeps up on special information in various county departments and knows, for example, that the public works department has record of all new subdivisions with their street names. He knows where to send people for detailed voting statistics or committee, board and commission minutes. The list is endless.

Personal contacts are as invaluable in the library world as elsewhere, and it is through these contacts that the municipal librarian can borrow materials often denied the public by other libraries. Liaisons exist not only with university and other local and state libraries, but with special libraries, bank libraries, law libraries and state agency libraries such as the Department of Criminal Justice Services Library. These links enable the municipal library to offer expert assistance in finding unusual reports.

Borrowing and photocopying from other libraries is often done. Owdom explains, "If somebody needs something, I try to get it for them. I don't refer them on to other agencies."

Each winter during the General Assembly session the library becomes a legislative clearinghouse, responsible for routing every bill that is introduced to the appropriate department and to the Commonwealth's Attorney's Office for review. This year some 1,700 bills were reviewed and routed in a threeto four-week period.

A little used but irreplaceable resource supplementing the official records and documents on Henrico County is an extensive file on Henrico gleaned from Richmond newspaper clippings dating back to 1954. This file constitutes a diary of events involving or affecting local government in Henrico.

Owdom scans all periodicals that arrive daily for items he knows will aid certain persons or departments. "If I know someone is working on a particular project or is interested in a subject and I find something that will help, I send the issue to them."

In many instances awareness of departmental needs, particularly in relation to governmental matters and affairs in the offing, permits anticipation of the need for materials before they are required.

The library is specifically geared to the special requirements of the offices and people it serves, and the staff keeps informed on current projects and long-term interests of the departments. This kind of special service is the hallmark of the municipal library.

Managers To Meet

Stan Kennedy, president of the International City Management Association, keynotes the Virginia Section, ICMA Annual Conference when it convenes Wednesday, May 18 at the Sheraton-Fredericksburg Inn. He will speak on the conference theme, "The Association and the Profession."

Jerry Johnson, director of administration at the Will Menninger Foundation in Topeka, KS, opens Thursday morning discussing "The Manager, The Profession and Personal Needs." Mark Keane, ICMA executive director, is the luncheon speaker. That afternoon, an authority on employee contracts, Margaret A. Gatewood, speaks on "Legal Issues Surrounding Termination."

Friday members will get an overview of management information systems and data processing. Robert Havlick, president of the Florida Innovation Group, explains the network and how technological issues are handled by managers in Florida. The Florida program has enjoyed tremendous success since its creation, Alan Harvey, city manager of St. Petersburg, FL, tells members how to get organized at home to be able to apply the new technology. Experts from the corporate sector will show how to apply various techniques. Microcomputers will be at the conference to give members a "hands on" view of how they work.

Assistant managers and members thinking about retirement have special sessions on Friday afternoon. Retired managers talk about their experiences with retirement, and members will hear from representatives from the Virginia Supplemental Retirement System and ICMA Retirement Corp. The topic for the assistant's session is the "Career Assistant." A panel of city managers and assistants will discuss the pros and cons of choosing the assistant slot as a career and what assistants expect from their managers.

Spouses will tour Historic Fredericksburg Thursday morning and Kenmore, the home of Betty Washington, George Washington's sister on Friday morning. A seminar on stenciling is scheduled Thursday afternoon.

The conference ends Friday after an evening of dining and dancing. For a room reservation card and registration form, call Kathy McIntyre at 804/649-8471.

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Managers Celebrate 75 Years of the Profession

Lt. Gov. Richard J. Davis spoke to a crowd of about 75 people April 1 in Staunton when the city and managers around the state celebrated the 75th anniversary of the councilmanager form of government. He encouraged managers to be innovative when solving problems and not to look to Richmond by saying "all the brains are not in Richmond." A former mayor of Portsmouth, Davis is a longtime supporter of the council-manager plan.

The nation's first city manager was hired in Staunton in April 1908. Many Staunton city officials and faculty from Mary Baldwin College, where the activities were held, attended the ceremony.

Special guests included former city managers of Staunton. Willard Day, who was city manager from 1923 to 1934, came from Williamsburg for the day, and Mrs. Seth Burnley, whose husband served from 1948 to 1962, was also there. Others included Manassas City Manager C. M. Moyer, who was Staunton city manager from 1963 to 1967, and Herndon Town Manager Edward D. Martin, city manager from 1968 to 1975.

Three out of state managers came. Wayne Barte, city manager of Wheeling, WV, joined the festivities. Two former Virginians, William Cook, city manager of Kingsport, TN, and Robert Taylor, city manager of Red Bank, TN, also attended.

ICMA Executive Director Mark Keane presented a plaque to the citizens of the City of Staunton for its 75th anniversary under the councilmanager plan. Thomas E. Roberts, mayor of Staunton, accepted the plaque.

Power Group To Meet

Four industry leaders will be guest speakers at the upcoming Municipal Electric Power Association of Virginia Annual Conference June 1-3 at the Holiday Inn on 39th Street in Virginia Beach.

James E. Baker, president of the American Public Power Association and manager of the Shrewsbury Electric & Light Plant in Shrewsbury, MA, will conduct a seminar on



Staunton Mayor Thomas Roberts, left, receives 75th anniversary plaque from IMCA Executive Director Mark Keane. ICMA presented a similar plaque to the city when Staunton celebrated 50 years of having the councilmanager form of government.

"Cable TV & Municipal Involvement," an issue of timely importance. David B. Holloway, administrator of safety and training with Electricities of North Carolina, an association of that state's municipal systems, will speak on two topics: "Energy Diversions" and "Management's Involvement in Safety." "Load Management" will be the topic of an informative session to be presented by Aubrey Tarkington, director of load management and operations studies for the Virginia Electric Power Co. (Vepco), and Earl Gore, Vepco's manager of division services.

Registration for the three-day conference is \$20 for MEPAV members and \$25 for nonmembers. Members have received their registration forms, but others wanting to attend should call Kathy McIntyre at the VML Office (804/649-8471) for a registration form and contact the Holiday Inn (804) 428-1711) for room reservations.

The conference will also include two cocktail receptions and the MEPAV business session.

Falls Church Explains Budget

A number of localities have spent most of the spring telling citizens about the budget process but the city of Falls Church put it on paper.

Devoting the front page of its citizens newletter to the budget process, the city published information to help citizens gain a better understanding of budgeting for city programs so that they might formulate their own opinions to express to council during public hearings. The article explains the purpose of budgeting and the major sections of the budget—the operating budget and the capital budget—and the adoption procedure.

The front page article was followed by an interview with City Manager Harry E. Wells, written in a question/answer format. Some of the questions addressed state aid cuts and how they would affect the city, other revenue shortages that may come in the next fiscal year and how taxpayers can let council know which programs they think should be given priority.

Professional Directory



(Courts, from page 5)

than 50 to 100 people in Bloomington whose prints matched a partial thumb print at the scene of the crime. Briscoe contended this testimony was false because the FBI and the State Police considered the partial print to be too incomplete to be of value and without that evidence there was no way of identifying him as the burglar. The U.S. District Court granted LaHue's motion for summary judgment.

Two other petitioners, Vickers and Ballard, were jointly tried of sexual assault and convicted in a state court. They subsequently brought a Section 1983 action against Hunley, a member of the Cedar Lake, Indiana police force, alleging that by giving false testimony the police officer had prejudicially diminished the credibility of the petitioners. A federal magistrate granted the police officer's motion for summary judgment and the U.S. District Court's affirmance was further affirmed by the Court of Appeals for the 7th Circuit. In upholding the lower courts, a six-member majority of the U.S. Supreme Court held that Section 1983 does not create a remedy for all conduct which

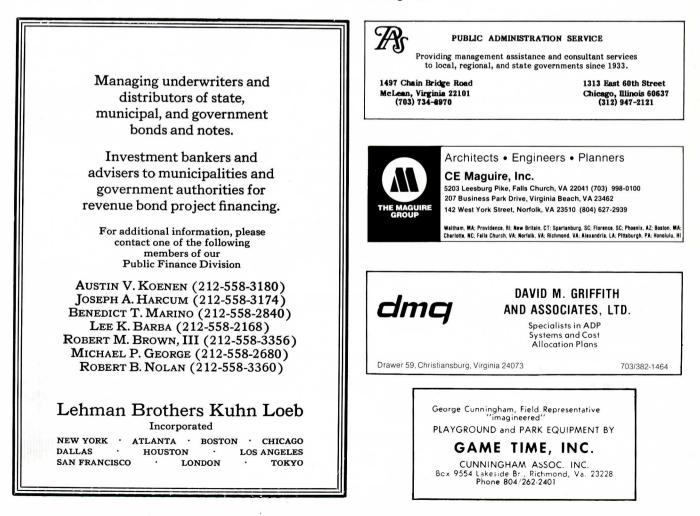
may result in violation of "rights, privileges or immunities secured by the Constitution and laws." Rather, its reach is limited to actions taken under "color of any statute, ordinance, regulation, custom or usage of any state...."

Here, the court said "it is beyond question that, when a private party gives testimony in open court in a criminal trial, that act is not performed 'under color of law.'" Referring to the English common law principle of immunity of parties and witnesses from subsequent damages liability for their testimony in judicial proceedings, the majority held that "at least with respect to private witnesses, it is clear that Section 1983 did not repeal the absolute immunity existing at common law."

Proceeding further, the court emphasized that common law provides absolute immunity from subsequent damages liability of all persons—governmental or otherwise—who were integral parts of the judicial process. Thus, "(w)hen a police officer appears as a witness, he may reasonably be viewed as acting like any other witness sworn to tell the truth—in which event he can make a strong claim to

witness immunity: alternatively he may be regarded as an official performing a critical role in the judicial process, in which event he may seek the benefit afforded to other governmental participants in the same proceeding." The court expressly rejected the petitioners contention that there should be an exception to the general rule of immunity in cases of alleged perjury by police officers as witnesses based on the argument that a policeman in uniform carries special credibility in the eyes of jurors and that perjured testimony by police officers is likely to be more damaging than such a testimony by ordinary citizens. The court dismissed this contention because of the overriding rationale of prior absolute immunity cases.

So, for the week ending March 7, 1983, local governments batted .667 percent in the Supreme Court—a fine average even if over a very short season.





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