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Two Cheers for Cheerleading: The Noisy Integration of VMI and the Quiet Success of Virginia Women in Leadership

Mary Anne Case†

You see, really and truly, apart from the things anyone can pick up (the dressing and the proper way of speaking, and so on), the difference between a lady and a flower girl is not how she behaves, but how she’s treated.¹

In her keynote speech for this Symposium, Judge Diane Wood lamented that “the terms of the sex discrimination debate still reflect to an alarming degree the failure to communicate and the insistence on a male perspective so aptly and humorously illustrated by” Professor Henry Higgins’s insistent question, “Why can’t a woman be more like a man?”² In this Article, I focus on a related question, equally vexing for Professor Higgins and for the current sex discrimination debate. Toward the end of Lerner and Lowe’s My Fair Lady³ (and of the Shaw play Pygmalion⁴ on which

† Professor of Law, University of Chicago Law School. For the first year of women as students at the Virginia Military Institute (“VMI”), I was given an extraordinary opportunity to observe the process as a representative of Newhouse News Service. As a result, some of this Article has more of the flavor of journalism than conventional legal scholarship — in addition to using conventional sources and making conventional scholarly points, I am reporting on events I personally observed and interviews I personally conducted. I am particularly grateful to Steve Newhouse, to VMI personnel Si Bunting, Mike Strickler, and Chuck Steenburgh; and to Crista Cabe of Mary Baldwin College for facilitating my access; to the many others at VMI and VWIL who spoke with me; to Louise Helper and Joan Shaughnessy of Washington and Lee Law School for local hospitality; to Paul Stephan and Frank Upham for cross-cultural perspective; to Douglas Baird, whose interest in my observations led to my invitation to participate in the Symposium; to Todd Preuss and to the many other colleagues, students and friends in Virginia, Chicago, and New York who allowed me to regale them with tales from the strange world of VMI. Unless otherwise indicated, all quotations come from my own interviews with the source and all observations about events at VMI were made by me personally.

¹ George Bernard Shaw, Pygmalion, in Androcles and the Lion, Overruled, Pygmalion 196–97 (Brentano’s 1918).
³ Lowe and Lerner, My Fair Lady (cited in note 2).
⁴ Shaw, Pygmalion (cited in note 1).
it is based), Eliza Doolittle, successfully made over from cockney to gentlewoman, gives profuse thanks to Higgins's associate Colonel Pickering who, she observes, always "treats a flower girl as if she was a duchess." Higgins insists indignantly that his own "manners are exactly the same as Colonel Pickering's," because he himself "treat[s] a duchess as if she was a flower girl.... The great secret... is not having bad manners or good manners or any other particular sort of manners, but having the same manner for all human souls.... The question is not whether I treat you rudely, but whether you ever heard me treat anyone else better." This latter question is one with which the law of sex discrimination has all too often contented itself. But I want to insist that it may well matter, not only whether all are treated the same, but how they are treated.

I shall explore this question in the context of a Pygmalion-like transformation — that of shaggy-haired, undisciplined teenagers into spit-and-polished "citizen-soldiers" at two Virginia colleges — one the state-sponsored Virginia Military Institute ("VMI") and the other the private, all-female Mary Baldwin College, whose Virginia Women in Leadership Program ("VWIL") was established in a failed attempt to protect VMI's all-male status. The process by which VMI achieves this transformation is by now familiar, from the pages of U.S. Reports and from the massive media coverage that attended VMI's resistance to and eventual integration of women in its corps of cadets. As Justice Ginsburg described it:

VMI produces its 'citizen-soldiers' through 'an adversative, or doubting, model of education' which features '[p]hysical rigor, mental stress, absolute equality of treatment, absence of privacy, minute regulation of behavior, and indoctrination in desirable values.'... Tormenting and punishing, the rat line bonds new cadets to their fellow suf-

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8 Id at 201 (cited in note 1).
6 Id.
7 Id.
5 The rat line is "a seven-month regimen, comparable to Marine boot camp, during which first year cadets, or 'rats,' are 'treated miserably,' like 'the lowest animal on earth.'" Petition for Cert at 3, United States v Virginia, 518 US 515 (1996), in 250 Gerald Gunther and Gerhard Casper, Landmark Briefs and Arguments of the Supreme Court of the United States: Constitutional Law 10 (Univ Pubs of Am 1997).
fers and, when they have completed the 7-month experience, to their former tormentors.9

As will be discussed in further detail below, there is a certain resemblance between this process and the classic form of legal education, in which, according to The Paper Chase’s Professor Kingsfield, students come in “with a skull full of mush” and “leave thinking like a lawyer.”10 VWIL’s kinder, gentler approach11 has gotten far less attention. Call VMI’s approach the “flower girl standard”: everyone gets treated like dirt. VWIL, by contrast, offers the “duchess standard”: instead of spartan barracks, “[r]esidence halls . . . elegantly equipped with brass chandeliers, plush carpeting and mahogany furniture”;12 instead of abuse, civility and encouragement.

The paradoxes here are many: First, the dominant class, men, have selected what appears to be the less attractive standard for themselves. Second, in part because they have selected it, this standard is assumed unquestionably to be desirable; inquiry into it is generally limited only to how far it will be extended to women. Much less attention is paid to whether the separate standard sought to be applied to women might in fact make some sense for women and men alike. The central issue here presented is one about which I have written at length before.13

It has been my contention that, having outlawed most discrimination in the law on the basis of sex, we are in danger of substituting a still tolerated gender discrimination;14 that is to

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10 The Paper Chase (Twentieth Century Fox 1973).
11 “That sort of in-your-face stuff, we don’t do,” said a Mary Baldwin spokeswoman, Crista R. Cabe.” Aaron Epstein, Future of Single Sex Public Schools Rests with Court, Charleston Gazette 8C (Jan 13, 1996).
14 Notwithstanding that the terms “sex” and “gender” are today conventionally used interchangeably in the language of the law, I shall throughout this Article distinguish between them: I shall use the term “sex discrimination” to refer to distinctions made between males and females and reserve the term “gender discrimination” to refer to distinctions made on the basis of qualities coded masculine or feminine, whether the person exhibiting those qualities is male or female. This is consistent with the way these terms are used in women’s studies and also with the usage favored on the Supreme Court by Justice Scalia. Scalia noted in a recent opinion that he would refer to “sex” rather than “gender” discrimination because the “word ‘gender’ has acquired the new and useful connotation of cultural or attitudinal characteristics (as opposed to physical characteristics) distinctive to the sexes.” J.E.B. v Alabama, 511 US 127, 167 n 1 (1994) (Scalia dissenting).
say, instead of simply preferring men to women, we now tend to discriminate in favor of qualities regarded as masculine and against those regarded as feminine. Because I view the VMI case as a textbook example of this sort of gender discrimination (and because I have been a Virginia taxpayer), I have followed the progress of the litigation and the subsequent implementation of the Supreme Court's decision particularly closely. I was privileged to have been able to observe personally many of the key events in the integration of women at VMI. And, although I confess myself guilty of the very sort of gender discrimination I deplore in that I, too, devoted the bulk of my time and attention to VMI and not to VWIL, I was also able to observe the students of VWIL. In this Article, I report and analyze my observations and test them against the predictions made when the VMI case was sub judice. Because I consider both the integration of women at VMI and the continuation of VWIL to be qualified successes, I am, in a sense, complying here with Richard Epstein's request at the Symposium that feminists tell "happy stories." Unfortunately, the sad part of my story is that, as a result of gender discrimination, the VWIL program, which arguably is the greater success of the two, has far less funding, far less attention and a far more uncertain future.

I. THE PROBLEM OF GENDER DISCRIMINATION AND THE LAW OF SEX DISCRIMINATION

At the risk of rehearsing old news, let me begin with a bit of background, first into the history of the VMI litigation and then into the state of play with respect to both the constitutional law

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Thus, it is a sex distinction that men grow beards and women do not, it is a gender distinction that women wear dresses in this society and men do not.

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16 After the first year of women at VMI, Superintendent Josiah Bunting was not yet prepared to admit that VMI was wrong to fight their admission, since, in his view, there remains a role for "single gender education." He will also acknowledge, however, that "everything worked out fine, nothing cataclysmic has occurred." Interview with Si Bunting, Aug 16, 1998. Indeed, things are going so well the administration is relaxed enough to joke about it. In describing Bunting's new book, An Education for Our Time, to me and to cadet Angela Pickett on August 17, 1998, VMI spokesman Mike Strickler said, smiling, "It's about a utopian college situation — no women" and punched Pickett lightly in the arm as they both chuckled. (In fact, the utopian college described in Bunting's book is co-ed. When asked if this means he's changed his mind about single-sex education, Bunting seeks to distinguish VMI, with its established traditions and mission, from a new school.) [Editor's Note: The University of Chicago Legal Forum does not verify personal interviews.]

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of sex discrimination and the feminist theoretical criticisms thereof.

A. Gender Stereotyping: The Masculine Men of VMI and the Feminine Women of VWIL

For more than a century, VMI and its South Carolina counterpart, The Citadel, took as a mission the training of "citizen-soldiers" for this country. But, though the job of a citizen-soldier may have changed in the last century, the job of a citizen-soldier may have changed in the last century, neither school had any intention of changing either its masculine methods or its all-male admissions policy without court intervention. When the Fourth Circuit initially declared that, in maintaining these state-sponsored all-male military schools with no comparable opportunities for women, the states of Virginia and South Carolina were denying women the equal protection of the laws, that court presented both VMI and The Citadel with three basic options for remedying this constitutional violation: (1) admit women; (2) abandon state support for the school; or (3) establish parallel institutions or parallel programs. VMI initially chose the last option, in the form of the so-called VWIL or Virginia Women's Institute for Leadership to be established at Mary Baldwin College, a private women's college about thirty-five miles from VMI. In presenting

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17 The job of soldier has become both more female and more feminine in recent years. Not only have women been entering the services and the United States military academies in record numbers, recent military assignments have extended well beyond traditional combat to, for example, the distribution of food and relief supplies to the people of Somalia. See, for example, Mark Thompson, Mission underlines new scope of U.S. military after Cold War, Houston Chronicle A25 (Dec 5, 1992) (quoting General Colin Powell describing the United States military role in Somalia as that of "a helpful, supportive, humanitarian army that will take care of human needs").

18 The Citadel opposed to the last a court order that it admit Shannon Faulkner as the first female member of its corps of cadets. Faulkner v Jones, 51 F3d 440 (4th Cir 1995). Faulkner's brief matriculation in mid-August 1995 followed the last minute rejection by Chief Justice Rehnquist and Justice Scalia of The Citadel's requests for relief from the order admitting her. Jones v Faulkner, 516 US 938 (1995). She withdrew from the school after spending most of the first week of new cadet training, generally known as "hell week," in the school's infirmary suffering from what she described as a physiological reaction in the form of severe nausea and vomiting caused by the accumulated stress of her years in litigation. See Debbi Wilgoren, Female Cadet Leaves Citadel; Faulkner Had Spent First Week of Training in Infirmary, Wash Post A1 (Aug 19, 1995).

19 United States v Virginia, 976 F2d 890, 900 (4th Cir 1992); Faulkner, 10 F3d at 232.

20 Virginia, 976 F2d at 900.

21 The Citadel similarly proposed subsidizing a "women's leadership program" called the South Carolina Institute of Leadership for Women ("SCIL"), at two nearby private women's schools, Converse College and Columbia College, but it could not get this plan approved in time to avoid Faulkner's court ordered admission. See Citadel Offers Plan to Remain a Male School, NY Times A26 (Oct 17, 1994). Both programs began with conditional funding that was not guaranteed to continue unless the programs were court-
remedial options, the Fourth Circuit did not "direct that any parallel program . . . be identical for both men and women." The court said any parallel program:

[M]ust take into account the nature of the difference on which the separation is based, the relevant benefits to and the needs of each gender, the demand (both in terms of quality and quantity), and any other relevant factor. In the end, distinctions in any separate facilities provided for males and females may be based on real differences between the sexes, both in quality and quantity, so long as the distinctions are not based on stereotyped or generalized perceptions of differences.

Notwithstanding the caveat against stereotyping, on remand the district court in the VMI case, *United States v Virginia*, then went on to approve a plan that was in every detail based on gender stereotypes: the plan assumed first a perfect identity between sex and gender, and second a near perfect dichotomy between genders. That is to say it proceeded from the premise that all men were gendered masculine, all women gendered feminine, and masculine and feminine were in most respects polar opposites. Then, taking VMI in its then-constituted form as embodying one polar ideal type, the program for masculine men, it approved construction of an opposite pole, a program to turn feminine women into leaders as well. VMI, a military school, relied on what it


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22 Faulkner, 10 F3d at 232, citing *Virginia*, 976 F2d at 900.
23 Id at 232.
25 See notes 28–30 and accompanying text.
26 The details of the plan are eerily reminiscent of the work of scholars such as Carol Gilligan, who has outlined what she sometimes claims are fundamentally different approaches to moral reasoning on the part of men and women. See generally Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Harvard 1982). This, Gilligan's most famous work, outlines two forms of moral reasoning she dubs the ethic of justice and the ethic of care. While Gilligan usually resists calling the former male and the latter female, the former is clearly gendered masculine and the latter feminine. Gilligan's own normative preference seems usually to be an integration of the two voices, both in the culture generally and within all human beings — this is the result she analogizes to a boy and girl's playing together the new game of the pirate who lived next door, which combines a girl's preferred game of neighbors with a boy's of pirates. See Ellen C. DuBois, et al, *Feminist Discourse, Moral Values and the Law — A Conversation*, 34 Buff L Rev 11, 45 (1985) (remarks of Carol J. Gilligan). This is particularly interesting in light of the suggestion in Judge Kiser's opinion that the result of training females in a feminine style and males in a masculine style will have the purpose and effect, not of further polarizing the sexes or genders from each other, *Virginia*, 852 F Supp at 484, but of bringing
called the adversative model to train its cadets. Yet, on remand the district court found:

After a detailed study of the appropriate methods by which the leadership program should be structured, the Task Force determined that a military model and, especially VMI's adversative method, would be wholly inappropriate for educating and training most women for leadership roles. In lieu of the adversative methods employed by VMI, the VWIL concept proposes a cooperative method which reinforces self-esteem rather than the leveling process used by VMI. VWIL will be a highly structured program but without the extreme adversative VMI components, such as the rat line and breakout. In the opinion of one of the leading experts on the education of women, Dr. Elizabeth Fox-Genovese, an adversative method of teaching in an all female school would be not only inappropriate for most women, but counterproductive. Dr. Fox-Genovese's opinion is based on her extensive research which shows that most women reaching college age generally have less confidence than men. It is the opinion of the Task Force that the methods adopted for the VWIL will produce the same or similar outcome for women that VMI produces for men.

In other words, as the VMI program is gendered masculine, so the VWIL program approved by the district court was to be gendered feminine. One was to take overly atomistic males and beat them into a cohesive unit, the other was to gently nurture the individuality and self-esteem of females. These gender spe-

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27 The gruesome details of the adversative model are set out in the first VMI district court opinion, as well as in numerous press accounts of the case. See United States v Virginia, 766 F Supp 1407, 1421–22 (W D Va 1991). For a further flavor of the model, see Susan Faludi, The Naked Citadel, New Yorker 62 (Sept 5, 1994).

28 As will be discussed in further detail below (see text accompanying notes 123–25), “breakout” is the ritual end to the rat line, involving a particularly punishing challenge, after which the “rats” are welcomed into the corps of cadets.

29 Virginia, 852 F Supp at 476.

30 According to one of VMI's expert witnesses, Dr. Wilson, “women do not need the leveling experience of a rat line and adversative methods and women are generally raised with a lower self-image than men.” Id at 480 n 10. The VWIL House “will not be operated
cific methods were intended to lead, one might argue, to a more androgynous result, since as a result of being treated in a feminine way, the girls are meant to develop qualities coded masculine, while masculine methods are used to achieve feminine connectedness in the boys. In the words of Judge Kiser, "If VMI marches to the beat of a drum, then Mary Baldwin marches to the melody of a fife and when the march is over, both will have arrived at the same destination."

One major difficulty with the plan was what some might call its gender essentialism — the assumption that sex and gender are coextensive, that all males and only males have the masculine traits on which VMI is based and vice versa. For, under the plan, women gendered masculine, as by all accounts the named plaintiffs in The Citadel case may be, had no place in the Virginia system. The gendered requirements VMI and VWIL im-

on a military format."

31 Given that it purports to utilize gender stereotypes only for the purpose of breaking them down, should the VMI/VWIL plan be seen as more like the "provision of a men-only engineering school and a women-only nursing school," which the dissent in the Fourth Circuit saw as clearly impermissible, United States v Virginia, 44 F3d 1229, 1249 (4th Cir 1995) (Phillips dissenting), or of a men-only nursing school and women-only engineering school? Whether one combination is more permissible than the other may turn on the precise extent to which it is the "archaic" rather than the "overbroad" character of such stereotypes that makes them constitutionally suspect.

32 Virginia, 852 F Supp at 484. Freudians would be fascinated by the sexual imagery here — a masculine beat pounded on a womb-like drum, a feminine melody blown on a phallic fife. Although the notion that excessive doses of masculinity will lead to a more feminine androgyny on the part of men is a fascinating one, akin to the notion that a dose of some stimulants will soothe hyperactive children, there is very little support in the record of either the VMI or Citadel case for this proposition. At least at The Citadel, cadets seem to be more encouraged to despise the feminine in themselves than to nurture it. Both the female and the feminine appear to be used throughout cadet training as a negative reference point. See Faludi, New Yorker at 70, 79 (cited in note 27).

33 See Faludi, New Yorker at 73-75 (cited in note 27); Linda L. Meggett, Girl with Citadel Ties Wants in Corps, Charleston Post & Courier A1 (Sept 1, 1995).

34 For a similar conflation of sex and gender based on sex stereotypes, but nevertheless approved despite there being no space for exceptions to gendered expectations, see, for example, Klinger v Department of Corrections, 31 F3d 727 (8th Cir 1994) (sexed and gendered prison programs held not to violate the rights of either male or female prisoners). In Klinger, the prison system was permitted to allocate resources so that female prisoners, but not males, were allowed overnight visits with their children, Klinger v Nebraska Dept of Correctional Services, 824 F Supp 1374, 1430 (D Neb 1993), and male prisoners, but not females, were given extensive vocational training. Id at 1404–07. It would not surprise most feminists to learn that most programs that essentialize and conflate sex and gender also seem to provide fewer resources, objectively measured, to the female/feminine side of
pose on students come bundled, the gender bundles for each of the schools contain a variety of components, and those of the male/masculine school are in each case the polar opposite of those for the female/feminine school. Not only is an "adversative" method contrasted with a "cooperative" one, but leveling with building self-esteem, as cures for respectively "aggression" and lack of "confidence." The classroom "passivity" of Mary Baldwin students is contrasted with "interactive" behavior at VMI. "Elegantly equipped" residence halls at Mary Baldwin with spartan barracks at VMI. Both VMI and The Citadel also seem to include in their bundles a heavy dose of the worst of masculinity such as "violence, vulgarity and an obsession with winning and dominating."

Although this sort of bundling is characteristic of the gendered requirements of many jobs in the workforce, in creating the two programs, Virginia tried to insist on aggregating sex and

the program. Thus, for all that VMI promised to put substantial monetary resources and alumni good will at VWIL's disposal, the two programs could hardly be deemed comparable by any measure, as the Supreme Court held. Similarly, several cases challenging the lesser opportunities available in female/feminine prison systems have approved them, sometimes with the seemingly paradoxical justification that because females are less numerous and less serious offenders there is less demand for the services provided male prisoners. But see, for example, West v Virginia Department of Corrections, 847 F Supp 402, 408 (W D Va 1994) (holding that providing to male but not to female prisoners the opportunity to attend a "boot camp" which made them eligible for early release was impermissible sex discrimination). Like VMI, the Virginia prison boot camp stressed military drill and physical training. Id at 404 n 3. Like The Citadel, Virginia prison officials argued that a comparative lack of demand among women, who were a small percentage of the overall prison population, justified providing boot camp facilities to men only. Compare Faulkner v Jones, 858 F Supp 552, 560 (D SC 1994) ("There does not appear to be any substantial interest in South Carolina for the establishment of an all-female military institution like The Citadel."), with West, 847 F Supp at 407 (state cited limited resources as its reason for establishing pilot boot camp program for men only). The court in West rejected this argument, noting that the evidence also indicated that women were at least as likely to benefit from the program as men. West, 847 F Supp at 407. For a discussion of cases on sex-segregation and the provision of services in male and female prisons, see generally Student Article, The Treatment of Women Prisoners after the VMI Decision: Application of a New "Heightened Scrutiny," 6 Am U J Gender & L 65 (1997); Note, Women's Prisons: An Equal Protection Evaluation, 94 Yale L J 1182 (1985). The prison, and especially the VMI and Citadel cases, may demonstrate yet again how very difficult it may be to make separate equal, especially when one begins with an inequality of long standing.

35 Virginia, 852 F Supp at 480.
34 Id.
27 Id at 502.
76 F Supp at 1424.
Allan Hunter, Same Door, Different Closet: A Heterosexual Sissy's Coming-out Party, in Sue Wilkinson and Celia Kitzinger, eds, Heterosexuality: A Feminism and Psychology Reader 150, 153 (Sage 1993); see Faludi, New Yorker at 67, 69, 72 (cited in note 27) (describing Citadel cadets' torture of each other, women, and small animals).
gender to a far greater extent than employers do today. Perhaps spurred by the requirements of Title VII, not even the police force continues to insist that being male is a bona fide occupational qualification for the masculine jobs it offers. If an exceptional woman demonstrates the masculine characteristics sought, employers stand prepared to hire her and they generally decline to hire males who lack these characteristics. But, for VMI, being male seemed to be not only a necessary but also a sufficient predictor of the masculine traits its students are meant to demonstrate. Rather than make specific inquiry into many of the personality traits or even the physical abilities of prospective students, VMI seemed to be concerned chiefly whether applicants were male and to assume that all the rest will follow. As Diane Avery put it, “VMI's only nonwaivable physical requirement for admission [was] that the applicant must be a male.” In the Title VII context, this would be retrograde in the extreme and patently illegal. But, inexplicably, the district court purported to find as a matter of fact and the Fourth Circuit affirmed the proposition that the differences in the two plans were acceptably based on “real differences, not stereotypes.” To say the least, this holding completely misunderstands both the nature and the legal status of sex stereotyping, as the Supreme Court was quick to hold.

B. Stereotyping and Perfect Proxies

In the constitutional, just as in the statutory, law of sex discrimination, “stereotype” has become a term of art by which is simply meant any imperfect proxy, any overbroad generalization. For a sex-respecting rule to withstand constitu-
tional scrutiny, it seems to be at least necessary, and usually sufficient, that it embody some perfect proxy. That is to say, the assumption at the root of the sex-respecting rule must be true of either all women or no women or all men or no men; there must be a 0 or a 100 on one side of the sex equation or the other. Even a generalization demonstrably true of an overwhelming majority of one sex or the other does not suffice to overcome the presumption of unconstitutionality the Court has attached to sex-respecting rules: virtually every sex-respecting rule struck down by the Court in the last quarter century embodied a proxy that was overwhelmingly, though not perfectly, accurate. Moreover, overbreadth alone seems to be enough to doom a sex-respecting rule. This is so even though many of the generalizations embodied in sex-respecting rules struck down by the Supreme Court are not only overbroad but also “archaic.” That is to say that as well as being descriptively less than perfectly accurate, these generalizations also embody outdated normative stereotypes (i.e. “fixed notions concerning the roles and abilities of males and fe-

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41 That is to say, a rule that distinguishes on its face between males and females, as the admissions requirements for both VMI and VWIL purported to do.

47 For further discussion, see Case, "The Very Stereotype" (cited in note 45).

43 This should have been the test for sex-respecting rules under the Equal Rights Amendment ("ERA"), according to an influential 1971 article on the meaning of the ERA:

So long as the law deals only with a characteristic found in all (or some) women but no men, or in all (or some) men but no women, it does not ignore individual characteristics found in both sexes in favor of an average based on one sex. Hence, such legislation does not, without more, violate the basic principle of the Equal Rights Amendment.


48 Thus, for example, in Craig v Boren, 429 US 190 (1976), although Justice Brennan tries to play games with the math in his majority opinion, more than 90 percent of those teenagers arrested in Oklahoma for driving while intoxicated were male, id at 200 n 8, and, in Califano v Goldfarb, 430 US 199 (1977), the evidence indicated that approximately 90 percent of women and 3 percent of men in the relevant pool were dependent on their spouses. Id at 239 n 7 (Rehnquist dissenting). These figures are representative, not extraordinary. The exceptions involve proxies, such as those behind sex-based peremptory challenges to jurors in J.E.B. v Alabama, 511 US 127 (1994), whose accuracy cannot readily be measured.

50 See Craig v Boren, 429 US at 204 (striking down restrictions on purchase of beer by young males because statistical evidence indicated sex was an imperfect proxy for the regulation of drinking and driving).

51 See Orr v Orr, 440 US 268, 295 (1979) (Rehnquist dissenting). Orr held that the availability of alimony to wives but not to husbands could not be justified by a state preference for an allocation of family responsibilities under which the wife plays a dependent role. See id at 282–83.
On this view of the law, *United States v Virginia* is an extremely easy case, the logical culmination of a long line of cases rather than any sort of new beginning. Ruth Bader Ginsburg, author of the majority opinion, stands at both ends of this line, now able to affirm as a Justice what she first argued as an advocate. All of the moving parts of the present law are fully articulated in her brief for the appellant in *Reed v Reed*, although it took until the second modern constitutional sex discrimination case, *Frontiero v Richardson*, which Ginsburg argued for the ACLU, for members of the Court explicitly to adopt them.

Interestingly, there is a sense in which *United States v Virginia* could have been a much more difficult case to fit under the perfect proxy, anti-stereotyping rubric: VMI was not really using sex as a proxy for anything, it was maleness itself in which the school was interested. What really mattered to VMI was its cult of masculinity in a world sealed from the presence of women who might either meet or undermine the masculine standard, in each case threatening male privilege. In some respects, this makes *United States v Virginia* an even easier case, since it then begins to look more like the many race cases from *Plessy v Ferguson* through *Brown v Board of Education* and *Loving v Virginia*, in which race also was not really used as a proxy for anything, it was the thing itself that the legislators were after. In that event it is far more difficult to argue that a legitimate governmental interest could be served thereby — just as it was a case of preserving white supremacy in *Loving*, it was a case of preserving male supremacy in *United States v Virginia*; and Virginia's lack of concern for its daughters in *United States v Virginia* is paral-

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64 *Califano*, 430 US at 223 (Stevens concurring).
68 As Christine Littleton put it, noting that the adversative method relies on "gender-based (misogynist) epithets": "Picture the poor drill instructor who screams 'What are you — a woman?' at a female 'rat.'" Christine A. Littleton, *Double or Nothing: Lesbian as Category*, 7 UCLA Women's L J 1, 13 n 41 (1996).
69 *163 US 537* (1896).
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leled by its lack of concern about race mixtures among the "inferior" races in Loving.51

The analogy between United States v Virginia and the early race cases extends beyond doctrine to history and sociology. What was going on at VMI is very close to what happened in the South more generally in the era of segregation and massive resistance — the fear of contamination by a group. VMI's student population is by and large a hard scrabble group, with low SAT scores;62 they are clinging to male privilege because it is all they have.63 The admission of women to VMI could also be predicted to have some of the same effects as the admission of blacks. For example, hierarchy works differently in a cross-race or cross-sex context. Whether it be a black man giving orders to a white man in the 1960s South, or a white man insulting a black man in the way superior officers are meant to insult entering freshman at VMI, the introduction of culturally coded racial differences disturbs the illusion of equality in sameness VMI claims to rely on.64 As Justice Breyer indicated at the oral argument of United States v Virginia, the exclusion of blacks could be justified in much the same terms as VMI used to try to justify the exclusion of women.65

In choosing to litigate the case as involving maleness as a proxy for both interest and ability,66 VMI made a decision that,

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51 The statute at issue in Loving did not involve a perfectly parallel treatment of the races. Instead, the statute at issue only prohibited "whites from marrying any non-white (subject to the exception for the descendants of Pocahontas)," id at 11 n 11, while "Negroes, Orientals, and any other racial class may intermarry without statutory interference." Id at 11-12 n 11. This made White Supremacy, rather than racial purity more generally, the obvious purpose of the statute. Similarly, there may be a significant difference between the facts of Vorchheimer v School District of Philadelphia, 532 F2d 880 (3d Cir 1976), affd by an equally divided court, 430 US 703 (1977), and those of Virginia. In Vorchheimer, Philadelphia had for nearly a century maintained two prestigious academic single sex schools, one for boys, the other for girls. Although academic facilities in the scientific field were superior at the boys' school, losing plaintiff Susan Vorchheimer proceeded on the theory that the two schools were of equal quality and that the constitutional deprivation consisted simply in her exclusion from the boys school. 532 F2d at 882-83.


53 See Avery, 5 S Cal Rev L & Women's Studies at 189 (cited in note 41).


55 What at first glance may seem a stronger argument — that the exclusion of women is a proxy for the exclusion of sexual tension between cadets, is strongly undercut by an amazing and little-known fact about VMI, one that, to the best of my knowledge, never made it into the record of the case: according to its officials, VMI does not discriminate on the basis of sexual orientation. VMI's officials repeatedly assured me over a period of years that they not only do not ask, but also would not care if applicants or cadets told, about homosexual inclinations. They added that homosexual conduct in the barracks was prohibited and that there were, as far as they knew, no homosexuals at VMI. For the
whatever its temporary success in the benighted Fourth Circuit, was bound to fail when set squarely against Supreme Court precedent. According to the district court, its findings of fact were proof that the establishment of an all-male VMI and an all-female VWIL rested on real differences between the sexes, and not on stereotypes. But precisely what the district court found as a matter of fact not to be a stereotype conclusively proved as a matter of law that stereotypes were the basis of the sex distinctions in the case. None of the many findings as to ability or inclination of males and females was categorical. In each case the most that was claimed was that the findings were true of the vast majority of one or the other sex. But, as Justice Ginsburg noted, what the constitutional law of sex discrimination teaches unequivocally is that “generalizations about ‘the way women are’... no longer justify denying opportunity to women whose talent and capacity place them outside the average description.

C. Choosing a Standard

Like courts deciding sex discrimination cases under the Constitution, feminist legal theorists have long been vexed by the question to what extent sex equality requires sameness of treatment for the two sexes or alternatively what sorts of differences between the sexes may serve as the basis for requiring or permitting what sort of differences in treatment. In the VMI litigation, this sameness/difference question was most often phrased in the familiar language of “separate but equal,” with the United States as plaintiff pressing strongly the view that “any parallel program...
would have to be ‘identical’ in substance and methodology to that of VMI”71 and the Fourth Circuit characterizing this as “a needless, and indeed baseless, demand for conformity”72 because, in the court’s view, “[s]ometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike.”73 Sameness theorists have been criticized for focusing on the exception to the detriment of the norm, for making the world safe for masculine women at considerable cost to the vast majority of feminine women and without challenge to the maleness of the standard against which women are measured.74 Difference theory, by contrast, has been seen to serve the norm well, but leave little space for the exception.75 There is, however, as many feminist theorists have recognized, no necessity for accepting the existing masculine standard as the sex-neutral sameness standard around which to build: a standard that incorporates some or all of what is traditionally feminine can be no less a sex-neutral sameness standard, so long as it disaggregates sex and gender and allows for the possibility of both men and women to exhibit feminine as well as masculine behavior and life patterns.76 Of course, the paradigmatically masculine and the paradigmatically feminine by no means exhaust the models around which a sex-neutral (but not necessarily gender-neutral) legal structure can be built.

In the specific context of VMI and VWIL, it would be both narrow-minded and short-sighted to see only two alternatives —

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72 Id at 1240.
73 Id, quoting Jenness v Fortson, 403 US 431, 442 (1971).
74 See note 70.
75 See note 70.
76 For example, one could assume in structuring the workplace and the laws governing it that the paradigmatic worker was not, as in the past, a person without childcare responsibilities who in addition had a spouse available to make life easier (i.e., someone with a stereotypically masculine biography). Rather, one could assume that the paradigmatic worker was more like the typical woman, who could not rely on her spouse to cook meals for her (let alone for her boss and out-of-town clients) and did have substantial childcare responsibilities. This would still be adhering to a standard of sameness, but the model on which the standard was based would be a stereotypically feminine rather than a stereotypically masculine biography. This would mean, as many have noted, that the term “working mother” might no longer be seen as expressing some modification or deviation from the ideal types of both “worker” and “mother”. See, for example, Martha Minow, The Supreme Court, 1986 Term — Foreword: Justice Engendered, 101 Harv L Rev 10, 13–14 (1987). In many respects, the Family and Medical Leave Act of 1993, 29 USC §§ 2601 et seq (1994), which guarantees to workers of both sexes leave to care for children and ailing family members, is a step toward this use of the feminine as the standard: it assumes that all workers do indeed have what most women in the workforce have long had — caregiving responsibilities to the family in addition to their paid employment.
one a traditional sameness solution of admitting women to the established masculine school and rejecting the feminine one entirely, as the United States successfully proposed in the VMI case; the other a traditional difference solution of approving the two programs in single-sex and gender configurations, as Virginia unsuccessfully proposed in opposition. Disaggregating sex and gender may help us to see that there may indeed be, as the Fourth Circuit suggested, “other more creative options or combinations.”

Virginia might, as at least one commentator proposed, “pull every state tax dollar out of VMI and give it to VWIL” because “it’s going to be a great program. . . . Moreover, it’s hard to see how admitting a man to VWIL would ruin it.” This option, sounding in sameness but built on a feminine model, calls into question the value placed on the traditionally masculine and elevates the traditionally feminine into something valuable to both sexes.

Another option, which one might call androgynous, would open up VMI and The Citadel not only to women, but to a methodology that is less obsessively masculine and explicitly incorporates positive feminine elements. This appears to be what VMI feared would in fact happen if women were admitted, what some feminists may have hoped for from the integration of women, and what is reported to have happened at the service academies following women’s admission to them. Judge Kiser found, for example, that:

[Integration of women at West Point was made possible by the Academy's move away from its adversative cadet system to a much more developmental style of training and emphasis on positive leadership. . . . West Point has also acted to eliminate practices such as upperclassmen yelling at and disciplining new cadets . . . [and] [h]azing of new cadets, including demeaning or insulting activity. . . .

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78 Jim Spencer, "Respect" for Women at Men's Schools Only in Manuals, Fort Lauderdale Sun-Sentinel 9A (Aug 30, 1995). Spencer claims that "[u]nfortunately, that's not an option." Id.
79 As one of my masculine male colleagues said of VWIL, "That's the program I want to go to, the one where they say, when you don't hit the target, That's OK, try again, you'll do better next time." Far from considering making the feminine program available to students of both sexes, however, South Carolina plans to condition its availability even to women on the continued existence of an all-male masculine Citadel. It made clear that, if The Citadel is forced to admit women, the SCIL program will no longer be funded. See note 21.
The new system uses positive motivation, instead of stress, as a means of leadership development. Some might see this as all to the good, for men as well as women, but not Judge Kiser, who focused only on what was lost in the move away from an adversative model.

As a final creative alternative, one might retain both sets of programs as embodiments of the opposite poles of masculine and feminine, but open each up to members of either sex who are appropriately gendered; thus both masculine men and masculine women could attend VMI or The Citadel, while VWIL and SCIL would admit those of both sexes more suited to or attracted by a more feminine approach. This proposal has the advantage of accommodating, not only a broader spectrum of women, but also the sort of men not accommodated at all by VMI and The Citadel.

Throughout the VMI litigation, Virginia and trial judge Jackson Kiser did what feminist theorists have long criticized in both the legal system and employer hiring practices — they assumed the correctness of a masculine male standard and asked only whether women could fit it, not whether it was an appropriate standard for persons of either sex. The district court’s findings of fact in the case went largely to the suitability of the masculine VMI methodology to women, rather than to the suitability of either the masculine VMI or the feminine VWIL methodology to men. Yet, at trial, when two of plaintiff’s expert witnesses were asked on cross-examination whether they were aware of any educational authority that recommended the “adversative methodology for the education of women,” the first, Carol Nagy Jacklin, responded, “No, nor for men.” Similarly, the second, Alexander Astin, answered, “I’m not sure there are any such authorities who advocate it for men.” Astin repeated, “I say, I’m not sure there are educational authorities that I’m familiar with who are advocating that form of educa-

\[\text{Id at 1440–41.}\]
\[\text{Of course, the fact that neither of the masculine programs and both of the feminine programs would have to change their names if they were to be opened to persons of both sexes, with the latter no longer calling themselves programs simply for “women in leadership,” is one further, albeit minor, indication that at present the feminine is seen as limited to women while the masculine approaches the universal.}\]
\[\text{See note 70.}\]
\[\text{United States v Virginia, 44 F3d 1229 (1995) (Joint Appendix in the Fourth Circuit at 856 and 992), cited in Avery, 5 S Cal Rev L & Women’s Studies at 227 n 139 (cited in note 41).}\]
\[\text{Id at 992.}\]
tion for men or women. Virginia seemed deaf or indifferent to any suggestion that the masculine standard might be generally unsuitable to achieving its legitimate ends, even apart from any consideration of its discriminatory character. The state seemed more interested in preserving a masculine standard at all costs than in training the best possible citizen-soldiers by the most suitable methods. This unquestioning acceptance of a masculine standard, at least for men if not also for women, and the failure even to consider the possibility of a feminine standard applied sex-neutrally is one of the central problems of gender discrimination.

The problem ought to be familiar to any student of legal education. As Lani Guinier and her colleagues noted in introducing their study of women students at Penn Law School:

When women were novel in the field of law, researchers were asking more simple questions: Were women too "feminine" to succeed in a "masculine" field? Could they adequately adapt to and incorporate the necessary attributes (that is, male styles) of professional conduct? These researchers wanted to know if women could "fit" into law school. The structure and practices of the school were not considered problematic; the only interesting question was could women "make it"?

This question was infamously answered in the negative by Justice Bradley in denying the right of Myra Bradwell and other women to practice law. Bradley used the alleged need for lawyers to exhibit "that decision and firmness which are presumed to predominate in the sterner sex" in essence to establish a bona fide occupational qualification for males as lawyers. Today, the Equal Employment Opportunity Commission ("EEOC") guide-

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66 Id.
67 Compare Case, 105 Yale L J at 84 (cited in note 13) (reciting evidence that a high masculinity score correlated with poorer salesmanship at Sears); id at 86 (reciting evidence that masculine behaviors led to less effective policing).
68 Because it had established a female/feminine alternative only to defend the sanctity of the masculine/male model to which it seems unshakably committed, Virginia should have been deemed to fail the third prong of the test established by the Fourth Circuit, which asked whether "the value of the benefits provided by the state to one gender tends, by comparison to the benefits provided to the other, to lessen the dignity, respect or societal regard of the other gender." United States v Virginia, 44 F3d at 1237.
70 See Bradwell v Illinois, 83 US 130, 139 (1872) (Bradley concurring).
71 Id at 142.
lines under Title VII would deem conclusions such as Bradley’s impermissible stereotyping.\textsuperscript{92}

In arguing \textit{United States v Virginia} before the Supreme Court, Paul Bender of the Solicitor General’s office exploited to advantage the analogy between VMI and a traditional law school. He asked the Justices:

[W]hat if a State set up a State law school in 1839, all for men, because at that time only men could be lawyers, and over 150 years it developed an extremely adversative method of legal education, the toughest kind of Socratic teaching, tremendous time pressures, tremendous pressures in exams, tremendous combativeness by the faculty, tremendous competitiveness among the students, and developed a reputation for that. . . . And it was a place that was known as hard to succeed at, and a third or so of the people flunked out in the first year, and the graduates of that school who survived that process became known as expert leading lawyers and judges in that State and Nationwide. And then as women came into the legal profession and started to apply to the school, to ask it to change its admission policy, the school made a judgment that most women really wouldn’t be comfortable in this environment, and the faculty would have trouble cross-examining them in the same way . . . and other students would have difficulty relating to them in the same competitive way, and so it’s better not to let women into the school. What we’ll do is, we’ll set up a new women’s law school, and it won’t have the tough Socratic method, it will


[T]he following situations do not warrant the application of the bona fide occupational qualification exception . . . . The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example . . . that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group.

But note that nothing in the EEOC’s formulation addresses stereotyping of the job, rather than the applicant. Thus, while it constitutes sex discrimination to assume that “women are less capable of aggressive salesmanship,” the EEOC does no better than Bradley with the stereotype that success on the job requires qualities such as aggressiveness, “presumed to predominate in the sterner sex.” \textit{Bradwell}, 83 US at 143 (Bradley concurring). The regulations merely give individual women the opportunity to prove that they can be as aggressive (as masculine?) as is assumed to be required.
have a much warmer, a much more embracing environment, and it won't have large classes with a lot of pressure, it will have seminars, and it won't have tough exams, it will have papers, and things like that [laughter] and every woman has to go to that law school, and no man can, and no woman can go to the old law school. I think we all understand that that is not by any means equal treatment of women with regard to their access to the legal profession.93

Judging by the oral argument of the VMI case, we seem, unfortunately, not to have advanced far beyond Justice Bradley in our assumptions that good lawyering requires qualities gendered masculine. By contrast to both Bradley and Bender, Matthew Hale Carpenter, Bradwell's lawyer, while he accepted the stereotype of women as gentler than men, argued to the Court that traits gendered feminine can have advantages over those gendered masculine in the practice of law. According to Carpenter, "[t]here may be cases in which a client's rights can only be rescued by an exercise of the rough qualities possessed by men. There are many causes in which the silver voice of woman would accomplish more than the severity and sternness of man could achieve."94

More to the point if we are rethinking educational equity, we are not yet asking the right questions of either law schools or military schools if we continue to assume unhesitatingly: (1) that tough, potentially abusive masculine educational methods are, of course, the best, (or indeed, the only adequate) preparation for lawyering or soldiering, let alone citizenship; or (2) that any softening of these methods should be considered only to the extent necessary to accommodate women too weak to endure their harshness. Perhaps lawyers and citizen-soldiers, like Eliza Doolittle, do not need to be berated or abused in order to learn. Perhaps treating them with respect can have the same effect on them as she claims it did on her — it "began [her] real education."95 I include the word "perhaps" advisedly. I do not here wish to argue, for example, for a wholesale abolition of even the traditional Kingsfield-style Socratic method — it may have its uses, as may Professor Higgins's brusqueness. But I did think the

94 Bradwell, 83 US at 137.
95 Shaw, Pygmalion at 196 (cited in note 1).
legal profession had progressed far enough to realize that "pa-
pers" written for "seminars" in a "warmer, more embracing envi-
ronment" were also a useful way to learn, perhaps even to learn
skills not easily taught by "tough exams" given to "large classes"
under "tremendous time pressure." At least I did until I saw on
the faces of the members of the Court the effectiveness of Paul
Bender's analogy.96

Limits of imagination make their way into Justice Ginsburg's
majority opinion as well. Comparing the objections to women at
VMI to earlier objections to their entry into the legal profession,
Ginsburg takes the claimed virtues of toughness at close to face
value. "Kept away from the pressures, hazards and psychological
bonding characteristic of VMI's adversative training," she wrote,
"VWIL students will not know the 'feeling of tremendous accom-
plishment' commonly experienced by VMI's successful cadets."97 I
turn to observation of VMI and VWIL to test this assumption.

II. SEPARATE AND SUPERIOR? VMI VERSUS VWIL

Just as Richard Epstein urged Symposium participants to
tell "happy stories,"98 Eric Schnapper urged us to talk about the
real world.99 I am not sure I will be doing that here, even though I
am reporting on actual events, not just theory or legal texts. VMI
is closer to Disney World than it is to the real world100 — it is a
land of toy soldiers, where all the windows on the barracks facing
out to the world are curtained and only those facing in to the core
of the Institute are open to view.

96 Other judges, too, still seem to believe, with Justice Bradley and Paul Bender, that
the effective practice of law requires masculine traits. For example, Frank Easterbrook, in
Scott v Parkview Memorial Hospital, 175 F3d 523, 525 (7th Cir 1999) insists that "Quest-
ions about engagement with clients' needs are no less appropriate for social workers than
questions about aggressiveness toward adversaries would be when hiring trial lawyers."
Moreover, he continues, because people entering a field tend to have the traits favored in
it, "law firms can screen their existing trial lawyers for dogged combativeness without
discriminating against women." Id at 526.
97 Virginia, 518 US at 549, quoting 766 F Supp at 1426.
98 See note 16 and accompanying text.
99 See The University of Chicago Legal Forum 14th Annual Symposium (Nov 13–14,
100 The closest VMI will ever come to the Real World may be the appearance of two of
its cadets on the MTV series of that name. Sharing a house in Seattle with other young
people, the boys behaved in classic VMI fashion — asking their housemates "Are you
lesbians?" and insisting that one of the larger, more attractive bedrooms is "too masculine"
to be given to women. The Real World (MTV television broadcast, June 16, 1998). See also
A. "Motivated, Motivated, Downright Dedicated"?

A single image best sums up my experience of VMI. It is of a dozen, sweating, shivering, exhausted rats on their first day of training. They have just picked up their rifles and, on orders of the upperclassmen supervising them, are facing the wall, noses pressed up against the barrels of their guns, shouting repeatedly on command, "I love my M-14, I love my M-14!" "Say it like you mean it, even if you don't," they are instructed. Behind them, their commander is reciting rapid fire that portion of the "rat bible" that describes the weapon. Amid statistics on the weapon's weight and range, and the shouted question, "Do you know what the M-14 is? It's one of the most powerful guns on this earth," I hear him read the following: "Although it has been replaced by the U.S. Armed Forces with the M-16, the M-14 still remains the basic weapon of the VMI Cadet." I later learn that the rifles issued to the cadets, rifles they must carry everywhere with them, have had their firing pin removed — they never will serve as a useful weapon, they are just a dead weight. For me, the M-14 is the perfect symbol for a VMI education: students are made to lug around, and to say they love, the dead weight of a tradition long since abandoned by the United States military.

1. VMI Values.

For all that VMI touts its patriotism, I find it in several related disturbing ways downright un-American. First, its implicit guiding principle is one more characteristic of Japanese than of American values — at VMI, the nail that sticks out gets hammered down. Next, the product produced through all this hammering is the perfect symbol for a VMI education: students are made to lug around, and to say they love, the dead weight of a tradition long since abandoned by the United States military.

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1. The "rat bible," officially known as The Bullet, is a handbook of facts and figures rats are instructed to carry with them at all times, commit to memory, and recite on command.

2. The Bullet: The Rat Bible for the Rat Mass of the Virginia Military Institute 23 (Virginia Military Institute 1997).

3. Another moment of symbolic irony comes when the rats tour the museum at New Market battlefield, commemorating their predecessors' participation in the Civil War. Seemingly oblivious, the rats go backwards through the museum, beginning at Appomattox and ending with secession, racing toward a vanished past.

4. Two facts are of note here. First, although VMI claims to be preparing cadets for military careers, the U.S. military long ago admitted women to its ranks. Second, as Diane Avery observes, the rat line was moderated at precisely that time during World War II when men with experience of real soldiering came to VMI. Avery, 5 S Cal Rev L & Women's Studies at 341-42 (cited in note 41).

mering often resembles the average Soviet worker in his attitude toward effort, authority and the system—he has learned, above all, to game the system.' I shall resist the most disturbing charge of all, that by institutionalizing and domesticating the potentially sadistic violence and thuggery of the boys it puts in uniform and in power, VMI follows the model of Nazi Germany. I still do not much like VMI, but “fascist” remains for me a fighting word, and what I saw of the VMI system was nowhere near pernicious enough to merit such a charge. Indeed, VMI may well, as it claims, do right by a certain type of person, best exemplified by its current leader, Si Bunting.

Like some of his students, Bunting saw himself as a young man given to “constant bad behavior.” These are not, on the whole, enterprising young criminals, drug dealers or thieves, nor are they serious perpetrators of violent felonies. They are rather vandals or hoodlums, engaged in low-level purely destructive criminality. Bunting himself was expelled from two elite prep

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ing of Venture Businesses, 13 Conn J Intl L 61, 81 (1998). Compare the most closely analogous American proverb, “the squeaky wheel gets the grease” for a sense of the difference in cultural attitudes.

106 See, for example, Symposium — Soviet Law After Brezhnev, 11 Soviet Union/Union Sovietique 293 (1984), particularly the contribution of Leon Lipson. Id at 318–21. There is another sort of lesson some cadets can learn, even further removed from the system’s announced ideal, although perhaps more salutary. As the hero of Citadel-graduate Pat Conroy’s The Lords of Discipline, a novel about an all-male Southern military school, puts it:

At first I thought I had wasted my college years, but I was wrong. The Institute was the most valuable experience I have ever had or will have. I believe it did bring me into manhood: The Institute taught me about the kind of man I did not want to be. Through rigorous harshness, I became soft and learned to trust that softness. Through the distorted vision of that long schizophrenia, I became clear-sighted. Under its system, a guerrilla was born inside me, and when the other boys rushed to embrace the canons of the Institute, I took to the hills.

Pat Conroy, The Lords of Discipline 5 (Houghton Mifflin 1980). Conroy told Shannon Faulkner after her withdrawal from The Citadel that he “had been studying The Citadel for 32 years and the most courageous person ever seen to enter ... was Charles Foster, the first black cadet. Not anymore. Now, the bravest person I have ever seen enter the Long Gray Line wore a dress.” Conroy wrote that Faulkner “never had a chance.” Pat Conroy, Letter to the Editor, Charleston Post & Courier A19 (Aug 27, 1995).

107 See, for example, The Bullet at 4–5 (cited in note 102) (“To the Rat: “[Y]ou may believe that the ‘rat line’ has become unjust. ... [Y]ou may fallaciously reason that the ‘rat line’ has no other purpose than existing as an outlet for the sadistic impulses in upperclassmen.”).

108 See Chaplinsky v New Hampshire, 315 US 568, 569 (1942) (giving no First Amendment protection to statement to police officer that he was a “Fascist” and “the whole government of Rochester are Fascists,” because these were “fighting” words, id at 572, which would provoke the average addressee to respond with violence). Id at 574.

109 John Sedgwick, Guess Who’s Coming to VMI, GQ 124, 130 (July 1997).
schools for "pranks" like throwing "a water balloon out the window and hit[ting] somebody's wife." But Bunting flourished at VMI. He found the rat line was something he "was good at"; it "came naturally to [him]." Bunting rhapsodizes: "There is something almost chemical in its attraction for a certain kind of kid. He thrives."

One way of looking at this is that VMI validates, routinizes and institutionalizes these boys' worst instincts. This is not quite the same as beating those instincts out of them. What those eager to hire VMI alumni may think they are getting is obedient corporate drones, but VMI is at least as likely to produce Soviet-style manipulators of the system, who have learned creative disobedience; to mark time and fake spit and polish; to shirk, but invisibly; to mock authority, but subtly. Rat David Nagel quickly realized that "during the ratline it's you versus the upperclassmen; after breakout, it's going to be you versus the administration." As faculty member Larry Bland put it, "These cadets have spent four years learning how barely not to lie, barely not to cheat, to go along to get along, to subvert the system without causing irreparable damage, but they have networked like crazy for four years and they never forget the old boy network."

Id at 130. These days the law Bunting breaks most often is the speed limit. While headmaster at Lawrenceville, he had so many violations he lost his license. Id at 170. And, as recently as last year, he told the 1998 graduating class at VMI, he was stopped for speeding in Roswell, New Mexico by a police officer who looked at the name on his license, said, "You've had a hell of a year at VMI," and let him go. When Bunting fulminates to me about the terrible example President Clinton sets for the youth of America, I ask him whether his own speeding tickets set any better example to youths inclined to drive recklessly. For an instant, he looks abashed.

"Screaming and yelling and pricking someone with a pin doesn't create good leaders," says Colonel Leonard Doscinski, the commandant of Norwich Academy, a co-ed military school from which VMI recruited upper-class female transfer students for the 1997-98 academic year. "It creates bullies. Lee Iacocca didn't bring Chrysler back by hitting his workers over the head with a hubcap... When his secretary was late, he didn't drop him or her for 50 pushups. We don't want that kind of behavior here. We want to motivate our cadets." James Bandler, Corps Curriculum, Boston Globe Magazine 15 (Feb 8, 1998). But Doscinski is facing some resistance as he moves his school toward a kinder, gentler military training. Id.

Not that these lessons do not have their practical uses. George S. Patton, who studied at VMI, famously noted about soldiering that the object was not to die for your country, but rather to "make[e] the other poor, dumb bastard die for his country." Patton, Address to the 3rd Army (May 1944), in Patton (20th Century Fox 1970).


Interview with Larry Bland, Aug 16, 1998. As in the Soviet system, despite the insistence on equality, connections matter from the start. For example, rats with siblings or friends among the upperclassmen come forearmed with useful information about the details of the initial hazing. Knowing that on the first day they will have to lug their bags
Like many faculty, Bland supported the admission of women because he hoped they would raise academic standards and the seriousness with which the academic enterprise is taken. His hopes may be fulfilled: the first year’s class of women have better grades on average than their male counterparts and they appear to be taking the academic side of VMI life seriously. For example, after failing a few quizzes, female rat Tamina Mars “stopped and... thought, ‘Why am I really here? I’m here for an education.’ Yeah, if your shoes aren’t shined, you might get yelled at, but on your diploma, they’re not going to say, ‘Rat Mars had the shiniest shoes in the whole entire corps.’”

Most cadets at VMI, however, learn to strive for excellence with respect neither to their shoes nor their grades. Rather, they learn what they can get away with, in matters military as well as academic. “You will find, as your knowledge of the system grows,” wrote 1997–98 Honor Court President Thomas M. Wirth to the rats, “that the VMI ‘game’ includes the notion that some rules were made to be broken when the opportunity arises.” Contrast this with the message Regimental First Captain Trimble Bailey sent to entering VWIL NULLS (the VWIL equivalent of rats) in her introductory letter to the BOOK for NULLS: “It is not enough for you simply to survive your four years in VWIL, you must pursue the highest aims. You must go beyond the requirements. Never forget the importance of this. For in order for you to excel, you must work together as a team.” If I were hiring, I would take Trimble Bailey over anyone I have met at VMI. She has had to show real leadership in putting together a brand new program.

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up and down stairs at a run, they can come prepared with lightly packed, easily portable suitcases while their classmates struggle with overloaded trunks.

117 See, for example, N.M. Bissell, Assimilation Plan for Women in the Corps; Status Report #1 (Jan 30, 1997), available online at <http://www.vmi.edu:80/PR/plan.htm> (visited May 10, 1999).

118 Carrie Johnson, VMI Sliding Into Coeducation; Female Cadets Say Experiment is Working, Richmond Times-Dispatch B1 (Oct 27, 1997).

119 The Bullet at 8 (cited in note 102). Wirth goes on to insist that the honor code is not one of those rules. Id.

120 The Virginia Women’s Institute for Leadership, The Book 6 (Mary Baldwin College 1999).

121 “When we came in, what we had was paper,” [Bailey] said. ‘We’ve created this corps into what it is now, we’re the beginning, and we’re starting the traditions that people are going to be talking about in 100 years.” Another NULL said that “Setting all their own rules that first year was a little like spanking yourself. Here you are a college kid, and making yourself be in by midnight.” Matt Chittum, VWIL Determined to Carry On: Marching for Merit of its Own, Roanoke Times & World News A1 (Nov 30, 1997). Not all the VWIL students have proven exemplary citizen-soldiers, however. One was convicted of a misdemeanor obscene performance charge and subsequently indicted
2. Lessons Learned.

Contrast next the respective rituals that mark the end of the probationary period for entering students at VWIL and at VMI. At VWIL, the nULLS cooperate in solving logic problems, form “a human pyramid as a team-building exercise,” and, after a fourteen-mile march, walk through an arch of sabers held by upperclassmen to be welcomed into the corps.\textsuperscript{122}

I had imagined breakout at VMI would also be about teamwork, about “the rat mass” working together as a class, realizing that in unity there is strength, but I was wrong. In the year I observed it, breakout was just one more ritual humiliation — the lesson being one of abasement, not cooperation. The final step of breakout began at the foot of a muddy field, artificially muddied by the hoses of the local fire department because, despite fears of hypothermia on an abnormally cold March day, the upperclassmen threatened not to participate unless there was “more water” to maximize the rats’ suffering.\textsuperscript{123} The rats had been up since before dawn, they were exhausted; led in a semi-daze to the foot of the hill, they were then flung on their faces into the mud by upperclassmen, who mingled taunts with cautionary admonitions to shield one’s eyes from the mud. Some rats hurled themselves into the mud. Is the lesson they have learned to abase themselves rather than waiting to be abased? Surrounded by upperclassmen shouting abuse and impeding their path, the rats crawled on their faces across the field to the base of the hill. There, as they began to climb, apparently helpful upperclass hands reached down to pull them upwards. But, just as a rat reached the crest of the hill, the once helping hand let go, and, worse, pushed him or her back down. Is the lesson here you never know whom to trust — although you can’t refuse help, you can’t rely on it either?\textsuperscript{124} Gradually, over the bodies of their classmates below, the rats pushed toward the summit. Is the lesson here that the only way to the top is to step on people? It is not, as I had expected, a les-

\textsuperscript{122} VWIL’s Nulls Make the Grade, Richmond Times-Dispatch at B4 (Feb 12, 1998); see also Matt Chittum, VWIL Freshmen Endure Rite of Passage: “Smiles, Smiles . . . This is Fun Stuff,” Roanoke Times A1 (Feb 11, 1998). The logic problems do take three times as long as planned for the nULLS to solve. Id.

\textsuperscript{123} Peter Finn, Women Reach Rat Finish Line; 1st Coeducational Class Completes VMI’s Ritual of Abuse, Wash Post A1 (Mar 17, 1998).

\textsuperscript{124} I am once again reminded of the Soviet bloc, of a generation that never knew whether its apparent friends were informing on them to the secret police and hence could trust no one.
son of conscious cooperative strategizing. The rats seemed lost in the isolated world of their own struggles, oblivious to those around them, grabbing each other's legs as if they were tree trunks — just something to hang onto.

At the top of the hill, an upperclassman greeted some of them with a formal handshake, refusing hugs and fastidiously wiping the mud off his hands with leaves at every opportunity. In a joyful stupor, now no longer rats, free of the regimen of pushups and "bracing," the new members of the corps of cadets headed for the showers, leaving their mud soaked uniforms for the staff to launder.

In 1999, breakout became by all accounts less abusive, more purposeful. For the crawl up the hill, the upperclassmen substituted a forced march to New Market, where the rats recreated the Civil War charge of their predecessors across the field of battle. As with any change that looks like a softening, an explanation is necessary to ensure that it will not be dismissed as an accommodation to the presence of women,\textsuperscript{125} proof positive that the rigorous system could not survive. Si Bunting himself endorsed this change with praise for the symbolic significance of commemorating a heroic tradition.

B. Deru Kogi, American-Style\textsuperscript{126}

At another New Market ceremony, the 1997 event marking the end of the first week of rat training, an upperclassmen tells the rats that, recreating his Civil War predecessors' charge, "all feelings of individuality left my mind, my heart, my spirit."\textsuperscript{127} He has learned one of VMI's lessons well. VMI's is a system that not only values conformity, but singles out any distinctiveness for

\textsuperscript{125} See, for example, Peter Finn, \textit{Women Reach Rat Finish Line}, Wash Post at A1 (cited in note 123) (describing complaints of upperclass cadets and alumni that, for the first few weeks with women, "the administration, fearful of bad publicity, was monitoring the upperclassmen so closely that the rats were not getting the usual punishment"). It is difficult to tell which changes are attributable to the presence of women, but it is likely that any change perceived as a softening will be blamed on them. For example, for the first year of women, all rats were issued water bottles to prevent dehydration in the searing August heat. The cadre referred to these water bottles as "babies," saddling all rats, male and female alike, with the feminized task of carting around a baby, and of being babied themselves. In the second year, when women themselves are barking orders, I found it interesting that the order they seem to bark most frequently is the command to drink. Is this the ethic of care at work — with men ordering punishment and challenge, and women ordering cadets to take care of themselves, mothering them?

\textsuperscript{126} "Deru Kogi" is Japanese for "nail sticking out." See note 105 and accompanying text.

\textsuperscript{127} Aug 24, 1997.
The first lesson of the rat line is that it is dangerous to stick out.

This is in part the message behind the proposition unsuccessfully advanced before the Supreme Court that women would upset VMI's equality in sameness. "Star athletes and academic achievers, talented musicians and artists, and just plain all-around nice young men — those who stand out in a crowd ... are likely to be targeted for extra hazing."129

At VMI, cadets are organized into companies by height — there are companies of extremely short people, people of average height, and tall people. (One effect of this segregation by height was that in the first year several companies — those with the tallest cadets — had no women assigned to them; the women were disproportionately represented among the shortest companies. For the second year of women cadets, this was remedied by assigning the tallest women to the tallest companies, even when they were by far the shortest members of those companies. A stickler would describe this as an accommodation to integration that erased formal equality of treatment, but it has not seemed to bother anyone much.) Well before the advent of women, both the short and the tall cadets were singled out for ridicule on the basis of their height, called "shrimps" or "trees," for example. The persons of average height escaped because there was nothing derogatory the others could think to call them — they were nails that simply did not stick out.

Women seem by and large to have escaped being targeted for hammering on the basis of their sex.130 Nor does it seem that their sex has exempted them. For all the protestations that it would be impossible to do, the upperclassmen seem to have treated the men and women of the class of 2001 equally harshly. "None of us has ever been singled out," said Kelly Sullivan.

128 Again, contrast the VWIL approach. According to VWIL executive director Brenda Bryant, who says VWIL will not produce "cookie-cutter cadets," "[w]e offer a self-development approach to leadership. Not, 'Here's the right way to do it, do it this way.' The first step to becoming a leader is being who you are." Andrea Billups, No Rat Line For These Cadets; All-female Corps Survives Coed VMI, Wash Times C8 (Nov 19, 1998).

129 See Avery, 5 S Cal Rev L & Women’s Studies at 329 (cited in note 41).

130 There is at least one major exception, a classic case of sexual harassment in which a high-ranking male cadet demanded sexual favors from three female rats. The male cadet was expelled. See Wes Allison, Top Cadet at VMI Dismissed; Rising Senior Allegedly Sought Sexual Relations with 3 First Year Women, Richmond Times-Dispatch A1 (June 26, 1999). Because the case came to light after this Article was substantially completed, the text of the Article does not incorporate an analysis of this case.

131 See Wes Allison, VMI Returns to Normal; Women Cadets Survive, Bond With Brother Rats, Richmond Times-Dispatch A1 (Dec 14, 1997).
ing sure that things are equal, they want us to blend in."\[^{132}\] "They have achieved this total state of gender blindness," Jen Jolin said.\[^{133}\] "We get yelled at just as much as the guys do, and vice versa."\[^{134}\] "We're all treated the same," Tamina Mars said, "We're all brother rats."\[^{135}\] N.B. not "sister rats", not even just "rats," instead, at VMI, alle Menschen werden Brüder — all are brothers.

But the general tendency to target any distinctiveness, to hammer down those nails, helps explain one of most bizarre incidents associated with the integration of women at VMI — the attacks on the cheerleaders. For years before it admitted women, VMI fielded a mixed-sex cheerleading squad peopled by women from neighboring colleges, including, in recent years, some from Mary Baldwin's VWIL program.\[^{136}\] With women in their second year at VMI itself, the squad for the fall of 1998 was chosen exclusively from VMI cadets — two men and nine women, seven of them rats.\[^{137}\] This squad was met with boos and jeers of "You suck" and was, on one occasion, pelted with peanuts from the stands.\[^{138}\] Moreover, the rat members of the cheerleading squad found themselves singled out for special hazing — upperclassmen

\[^{132}\] Id.
\[^{133}\] See Johnson, VMI Sliding Into Coeducation, Richmond Times Dispatch at B1 (cited in note 118).
\[^{134}\] Id. It may well be, however, that, whatever VMI's willingness to treat women as badly as men, the general public will not tolerate it. When the national media published a photo of rat Megan Smith surrounded by substantially larger, visibly yelling upperclassmen, the objections came fast and furious. "We took a lot of heat on that one," said... Bunting... 'A lot of people, including some personal friends, called or e-mailed or wrote after seeing that picture. They all asked essentially the same question: What kind of place is this?' Arnold Abrams, Changed, Yes. Different, No. Virginia Military Institute Has Survived its First Year With Women, Newday B6 (May 11, 1998). But pictures identical except for the sex of the rat (identical even in the rat's diminutiveness vis-à-vis the tormentors) had long been a staple at VMI. See, for example, John E. Holloway, To Wear the Ring: VMI Character, Characters, Caricatures (Sui Generis 1982). Similarly, there is some question as to the extent the women who withdrew from The Citadel after alleging hazing were singled out on the basis of sex rather than merely being subjected to the sort of bad treatment also imposed on Citadel men, but viewed as more disturbing when women are its victims. Eric Harrison, Citadel Disavows Hazing, Sexual Harassment, Los Angeles Times A14 (Jan 14, 1997) (citing Citadel Interim President Clifton Poole saying, "So far, based on everything we can determine through our investigation, the incidents of alleged hazing were not really gender-based... When it was occurring to females it was occurring to males at exactly the same time in several of the cases.") (alteration in original).
\[^{135}\] Id.
\[^{136}\] See Marianne Means, Rah-Rah-Rah: Male Cadets at VMI Should Grow Up, Virginia-Pilot B9 (Dec 24, 1998); Guy Friddell, Behavior of VMI Cadets is Nothing to Cheer About, Richmond Times Dispatch C5 (Jan 1, 1999).
\[^{137}\] Friddell, Behavior of VMI Cadets, Richmond Times Dispatch at C5 (cited in note 136).
\[^{138}\] Id.
regularly stopped them in the barracks and ordered them to perform cheers instead of pushups.

Given the general opposition to distinctiveness, especially among rats, the one of the candidate explanations for the fate of the rat cheerleaders that has least to do with sex or gender has significant explanatory power. According to reports, "[s]ome males objected because ... rats are not supposed to hold roles of leadership." As one letter to the editor about those who abused the cheerleaders put it:

These cadets would do well to remember the treatment of a faculty member of some years past at VMI. Outwardly grim and eccentric, he was derided for his personal habits and classroom demeanor. Obviously, he didn't quite fit in, and made a good target for ridicule and practical jokes. The cadets called him 'Tom Fool.'

At the first battle of Manassas, General Bee called him 'Stonewall.'

If Thomas J. Jackson were in our midst today, he most likely would find that honoring individual diversity is still not an entrenched part of the VMI tradition.

Proponents of individual diversity, as well as of true grit, may be gratified to learn that none of the cheerleaders has quit, notwithstanding the abuse.

C. Men in Skirts?

Two other candidate explanations for opposing the cheerleaders do center on sex and gender, but they are in curious conflict with one another. While some male cadets complained

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139 Id.


141 A third, unstated, could simply be loyalty on the part of some VMI men to the displaced cheerleaders from the women's colleges, some of whom had dated VMI cadets.

142 This conflict reflects an ambivalence on the part of the cadets, and to a lesser extent the administration, as to the extent female students at VMI should look like and be looked at as women. An important locus for this ambivalence is the question of exactly how short the hair of female rats should be cut. When it finally got around to considering the admission of women, as the Supreme Court had ordered, VMI announced that its "idea would be, if we go forward with coeducation, to make the absolute minimal changes necessary to accommodate' women." Wes Allison, Bunting Watching Citadel; He Likes What's Been Done So Far, Richmond Times-Dispatch B4 (Aug 29, 1996). As at The Citadel, the question of whether an accommodation should be made to the severely short haircuts imposed on cadets attracted much attention. Initially, it appeared that VMI would follow an approach close to that recommended in this Article — it would establish a sex-neutral
that the women, with their short haircuts, "don't look like cheerleaders, . . . [t]hey look like men in skirts," still other male "cadets circulated a petition claiming that watching fellow students in short cheerleader skirts was creating 'sexual tension.'" Of course, an open acknowledgement of homoeroticism might dissolve some of the contradiction — it may be precisely because the cheerleaders look like men in skirts that some of their fellow students find them arousing.

In the VWIL program, cheerleading has a completely different valence: Several of VWIL's most successful cadets, among them Trimble Bailey, have a high school background in competitive cheerleading. I learned this as, watching VWIL drill, it occurred to me that perhaps the best preparation for military drill and ceremony might be the sort of precision drills cheerleaders perform. Knowing that Bailey was a cheerleading champion helped explain not only how she as an individual could be selected as top cadet over competitors from VMI, but also how VWIL could beat VMI in ROTC and AMCS (Association of Military Colleges and Schools) competition.

I find a delicious irony in this — the most despised and feminized of athletic activities has helped the women of VWIL beat the men of VMI at an activity the latter view as central to their masculine ethos — military drill and ceremony. It seems to me

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standard by moving closer to a feminine model. That is to say, it would set the uniform hair length for all rats at a length still quite short, but longer than it had been in recent years. According to spokesman Mike Strickler, from 1974 to 1978, the male rats had longer hair than the women did in 1997, but each generation sees tradition as what it itself has experienced and resists change, even if it means a return to older traditions. Conversation with Mike Strickler, August 19, 1998. The final decision to keep the women's hair just slightly longer than the men's also vindicated those at VMI who wanted women students not to lose all trace of femininity. Conversation with VMI official Mike Bissell, Aug 18, 1998. But a quarter inch in length makes a world of difference: I can testify from experience that the very slight difference in hair length is the single most reliable way of distinguishing male from female rats — breasts and hips-to-waist ratio are effectively hidden by fatigues and many male cadets are as slight and delicate looking as women. In my view, VMI was wrong to abandon its intermediate plan of returning the hair length for all rats to one slightly longer than recently permitted, but consistent with uniform rules in past decades.

143 Friddell, Behavior of VMI Cadets, Richmond Times Dispatch at C5 (cited in note 136).

144 Means, Rah-Rah-Rah, Virginia-Pilot at B9 (cited in note 136). Dating rats and dating within the chain of command for upperclassmen is forbidden at VMI. So is any sexual activity in the barracks. See David Nakamura, VMI Leader Still Prefers the Old Way, Wash Post C1 (June 13, 1998) (citing incidents of discipline for sexual encounters between VMI students).

145 In the joint ROTC program for VWIL and VMI, the highest honor went to Bailey. See Jon Cawley, Roanoaker Marches to Head of Ranks Again, Roanoke Times & World News N13 (June 12, 1997).
that other feminine elements in the VWIL methodology also contribute to its success. I hasten to add that I did not begin with this view; I end with it. On my first visit to VWIL, early in 1996, I was impatient with the feminine tentativeness of the administrators and students I met. Notwithstanding my abstract endorsement of a place for feminine values, I found myself sharing Justice Ginsburg's doubts that the VWIL program would offer sufficient educational opportunity to its students.

When I finally returned to Mary Baldwin in August 1998 (like the rest of world, I had my attention captured by VMI), things were quiet. In lieu of the sound trucks, reporters, photographers and curious onlookers lined up to see, not just the first, but now the second class of women matriculate at VMI, on the first day for the fourth class of VWIL (the day that sees VWIL's first entering class as seniors at the top of a full chain of command) there were no spectators but me and a reporter for the hometown paper. A few women achieving results by being nice to one another, even in a military setting, just is not news the way men yelling at one another and at the occasional woman seems to be.

At the end of their first day of training, the rats I had just left behind at VMI were a sorry lot — terrified, sweating, shaking, and exhausted, they were unable to tell their left feet from their right. A day of drilling has many of them still tripping over their own feet and none of them smiling. By contrast the VWIL nULLS seemed to be having a good time. Their day began with calisthenics, followed by introductory lectures on the VWIL system and what can only be described as a fashion show. One by one, upperclass women paraded in front of the nULLS in each of the various uniforms they would be issued, demonstrating the fine points of tucking in the pant leg and the blouse. Far from yelling at the nULLS, Trimble Bailey did all she could to reassure them. “I didn’t mean to sound condescending,” she said. “It can be intimidating, but we’re going to remain professional. If any of you think you’re at VMI, you’re not. You’re going to be bombarded, but don’t get frustrated. . . . We can march just as good as any men, as any kind of corps. We’re sharp.” Making no exorbitant claims about the rifles being passed out, Bailey acknowledged:

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146 Aug 18, 1998.
147 Id.
You'll be issued dummy rifles. They're not real, they don't even look real, they're rubber, but you can hurt yourself with them. You're going to want to play with them, but if anybody catches anybody pointing rifles at each other, we'll take that very seriously. ... Now why do we issue you dummy rifles? We want to stress accountability. You carry it at all times, to lunch, to the latrine, you're going to sleep with it, you're going to hold it like it was your baby. ... Why do we issue it? We're not promoting killing; it's an accountability thing.  

For much of their first afternoon, the nULLS practiced drills. They, too, were forced to drop for pushups when they made mistakes, but with this difference — instead of watching them suffer, the members of the VWIL cadre dropped for pushups with their charges. "When you screw up, we screw up," the VWIL officers said.

Amid the generally nurturing atmosphere, one platoon commander seemed to have absorbed more of the VMI spirit. While the other leaders had their group chant about what fun they were having, she insisted that the response to her call be shouts of "More Pain." At the end of the day, the platoons held a drill and ceremony competition, testing what they had learned. I was secretly gratified to see the platoon chanting "More pain" finish far out of the lead. I was even more impressed at how much, as a group, the VWIL cadets had mastered after one day. Perhaps Kirsty Wheeler, accepted into both VWIL and the first class of women at VMI, had a point when she insisted: "I can achieve the same goal going through VWIL without going through all the nonsense."  

CONCLUSION

In the bookstore at VMI, I read the following on the dust jacket of a course book: "Endangered Cultures is the first English translation of a classic work by renowned Mexican anthropologist-historian Miguel León-Portilla, ... in which he examines what happens when internal or external factors, or both, threaten

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148 Id.
149 Chittum, VWIL Determined to Carry On, Roanoke Times & World News at A1 (cited in note 121). See also Wes Allison, MBC Program May Exceed 100; Its Largest Class Will Arrive Tomorrow, Richmond Times Dispatch B4 (Aug 18, 1997) ("Only three women applied to both VMI and VWIL. All chose Mary Baldwin.").
the very core of a culture." I fear it is not yet time for the next edition of Endangered Cultures to include a chapter on VMI.

For the first year of women at VMI, the musical chosen for performance by the cadet theatrical group is not My Fair Lady, but Kiss Me Kate, which even Si Bunting admitted was “a bizarre, dangerous choice” under the circumstances. Kiss Me Kate is, of course, Cole Porter’s modern musical version of The Taming of the Shrew, wherein the feisty female lead learns the virtues of submission to male authority. But, in an ironic twist, the “taming” works both ways. “Where is the Life That Late I Led?” is a theme song that could equally well be sung by the newly integrated institution and by the cadets of both sexes who people it. (Or, using the more up to date musical reference, to the REM song, chosen by Cadet Scott Smith, for both the Institute and its cadets in 1997-98, the VMI experience was “the end of the world as we know it.”) For better and for worse, however, the world as VMI knew it has not ended. I for one, still await the day when VMI is ready to say, not only with respect to its vanished all-male status, but to its tenaciously maintained hyper-masculinity, “A pox on the life that late I led.”

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150 See Miguel León-Portilla, Endangered Cultures (Julie Goodson-Lawes, trans) (S Methodist 1990). In addition to course books, the VMI bookstore stocks items of interest to cadets. The bookstore staff prepared for co-education by stocking items they thought might appeal to the incoming women — staples like bras and tampons, but also Dove soap, a shelf of Danielle Steele novels, and a wall of gooey Hallmark cards featuring, for example, “Top Ten Things Only Women Understand.” Just as the Dove proved a hit among male cadets with sensitive skin, so, the store personnel predicted, guys would supplement their usual reading list of action comics, spy stories and military histories with Danielle Steele’s work. “They’re good books; he [sic] is a top ten author,” one bookstore staffer told me in August 1997. The bookstore’s memorabilia corner, targeted at alumni, has yet to catch up with co-education, however. Although sweatshirts with the VMI logo have long come in pastel shades, for wives, girlfriends and daughters, as of 1998, the model cadet Christmas ornaments and tin statues did not yet come in a female version, with longer hair and more prominent breasts. The African-American versions — skin painted dark brown, have sold out, though. And the staff hastens to say, “We’re already in the process of working on a female soldier. We don’t want to slight anyone.”

151 Cole Porter, Kiss Me Kate (Chappell 1967).


154 Porter, Kiss Me Kate at 149 (cited in note 151).

155 R.E.M., “It’s the End of the World as We Know It (And I Feel Fine)” on Document (Intl Record Syndicate Inc 1987).

156 Kiss Me Kate (Metro-Goldwyn-Mayer 1953).