

Virginia
Women
Attorneys
Association

LEX CLAUDIA

Volume III, Issue 3

June 1984

School Prayer: WHAT THE COURT HAS REALLY SAID

RECENTLY, there has been a great deal of inaccurate information published regarding the content, the intent and the effect of decisions of the United States Supreme Court on prayer in the public schools. This article addresses some of the court decisions that have been handed down on school prayer issues, and is printed here to disseminate accurate information more widely.

The First Amendment to the U.S. Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . ." Although the First Amendment was interpreted to apply only to the federal government, the Fourteenth Amendment made the First Amendment provisions applicable to all levels of government. Presently, any government action, federal, state or local, that "advances or inhibits" any religion or all religions is forbidden.¹

This constitutional provision was one of the most significant principles upon which this Nation was founded. Many colonists settled in America due to a lack of religious freedom in their native lands. Nonetheless, government-enforced restrictions on religious belief and practices have not been uncommon in the United States. Only in Virginia and Rhode Island did complete religious freedom exist when the First Amendment was written by James Madison.²

Since the 1940's, the United States Supreme Court has frequently been called upon to decide whether a government law, regulation, policy or practice intended to protect the right to worship actually interfered with the individual's right to worship as he pleased. The Court has had the difficult task of defining the neutral position.

Not all government functions are divorced from prayer. From invocations on Capitol Hill to the ceremonial phrase, "God save this honorable court," prayer has figured often in government activities. However, prayer in the schools presents special problems.

Some of the most controversial freedom of religion cases have involved religious practices in public schools where the training of young people is involved. Strong competing interests, many of them unique to public school situations, are often present. Our public schools are probably second only to the family in their influence on young students. The balance between using the public schools as a means of instilling our young people with desirable moral values and yet protecting religion against government influences "sacred to conscience and outside the schools' domain"³ is a balance that is not easily struck.

Many people believe that religious practices in schools are acceptable if they are non-denominational or give "equal time" to all religions. However, serious disputes arise both over the definition of a denominationally neutral program, and the practicability of giving equal time to all in a country where diversity of religious beliefs exist. The Supreme Court has held that the equal time approach violates the Constitution because "separation of Church and State is a requirement to abstain from fusing functions of Government and of religious sects, not merely to treat them all equally."⁴

Public schools are funded by taxes levied on citizens of all faiths, and citizens of no faith. If religious observances are permitted in the schools, regardless of their neutrality or democratic application, each taxpayer is being required to finance a religious practice with which he or she may disagree. Thomas Jefferson's Act for Establishing Religious Freedom declared that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical. . ."⁵ This act is still part of Virginia law.⁶

Compulsory attendance laws require children who are not enrolled in a private institution to attend public school. Thus, any religious practices

(CONTINUED ON PAGE 2)

Legislative Conference of the Virginia Women Attorneys Association

The location for this year's VWAA legislative conference was the Roslyn Conference Center, Richmond, Virginia on May 6 and 7. Twenty-four members of the VWAA attended and also one member of the General Assembly, Del. Marian Van Landingham. The Conference began with a legislative update and a report of what happened to the VWAA legislative agenda. The day ended with a talk on what really goes on in the General Assembly and how to deal with it, or at least some helpful hints on how to deal with it!

Monday was devoted to selecting items which are to be on the 1984-85 VWAA legislative agenda. When that was completed, the group tackled the problem of how to best use our resources to research and promote

(CONTINUED ON PAGE 3)

SCHOOL PRAYER

(CONTINUED FROM PAGE 1)

during the school day take place before a "captive audience." Impressionable young children are readily influenced by the example of teachers and classmates whom they admire. Because of their inexperience and impressionability, most school children cannot make the rather sophisticated distinction between the school's permitting prayer and the school's authorizing prayer. They will come to believe that praying in school is officially sanctioned and "right," even if it conflicts with that they have been taught at home. The school has a responsibility to exercise its influence with care.

When deciding the school cases, the courts considered these factors in striking a balance between establishment and free exercise of religion. Two major Supreme Court cases regarding school prayer were decided in the early 1960's. In Engel v. Vitale, New York State composed a non-denominational prayer for public school students and teachers to repeat each morning. The Court held that the government could not prescribe a certain prayer to be recited by school children. It found that the use of the school system to encourage the recitation of a special prayer was inconsistent with the Constitution.⁷ In Abington School District v. Schempp,⁸ the Court forbade schools to hold religious services or to provide for recital of the Lord's Prayer, even if individual students could refrain from the recitation by leaving the room.

The important point in both cases was that the prayer was endorsed by the school, an institution of government. Even when children who didn't wish to participate could be excused, the Court still held the prayer was involuntary and violative of the Constitution. It concluded that the influences of peer pressure, of teachers and of the school encouraged participation, and the fear of misunderstanding a refusal to participate coerced students into participation. Even though the prayer was technically voluntary, in effect there was heavy pressure on students and staff to participate.

The Court was extremely concerned about this coercive effect on impressionable young children. Some students would be put into a position of having to decide whether to risk the disapproval of their classmates and teachers or to violate their own beliefs or those of their family. Some religious philosophies do not acknowledge a creator to whom prayer can be addressed, and a number of religions, including some Protestant denominations, do not believe in public prayer. To avoid placing children in such a difficult and spiritually troubling position, the Court held all prescribed prayers unconstitutional.

However, nothing in any of the decisions on the school prayer issue forbids truly voluntary prayer. If, for example, a child believes he should pray before eating, he has every right to ask a blessing privately, whether he is at home or in the school cafeteria. Furthermore, the school may provide a moment of silence. Students may pray individually or not, as they choose, in a manner they have been taught to be appropriate. Schools may also release students so that they may attend religious instruction away from the schools.⁹

The Court has by no means banned the subject of religion from the public schools, and has acknowledged the pervasiveness of religion in the history of our country and civilization. Classic masterpieces from "Paradise Lost" to "The Messiah" or Michaelangelo's "Creation of Adam" were inspired by faith. If all references to religion were removed from the schools, the curriculum would be inadequate and sterile. This is not the intent of the Court. "When presented objectively as part of a secular program of education,"¹⁰ study about religion or the Bible as literature is acceptable. Among the subjects which the Court has suggested may be offered are Comparative Religion, History of Religion, the Relationship of Religion to Civilization, and the Historic and Literary Qualities of the Bible. The test is the way in which these subjects are taught. If an instructor is using religious material to convey a religious message, then the First Amendment is being violated. If the material is being studied

in a purely academic manner, it may be included in the secular course of study.

The Supreme Court has established a three part test in order to evaluate the constitutionality of school activities involving religion. If the activity fails any one of the parts, it violates the First Amendment. The questions are:

1. Is there a secular purpose for this activity?
2. Is the primary effect of the activity either the advancement or the inhibition of religion?
3. Does the activity foster "excessive government entanglement with religion?"¹¹

Using this test, the courts have created certain standards. Although this list is not exhaustive, it provides guidelines indicative of the courts' direction in the area of school prayer.

1. Organized group prayer, regardless of a student's option not to participate, is forbidden in the public schools. However, a student is entitled to offer personal prayers that are not disruptive to others, and moments of silent meditation are permissible.
2. Study of patriotic materials with an incidental religious content is permitted.
3. The objective study of religion or the Bible is permitted, but classes of religious indoctrination are not.
4. Children may be released from school in order to attend religious classes conducted off-campus by their faith.
5. States can neither forbid the teaching of evolution nor require or permit the teaching of creationism in the public schools.
6. Public schools below the college level should not sponsor religious clubs nor permit student prayer groups to meet on school premises.
7. The posting of religious signs is forbidden.
8. Assembly programs may use religious materials to illustrate the heritage of a holiday as long as the religious content is incidental and the primary purpose is secular.
9. Schools may, under limited circumstances, rent their facilities on a temporary basis to religious groups.

The above article was prepared and in part reprinted from the A.C.L.U. A.D.U. Church/State Handbook by Sylvia Clute.

¹Cantwell v. Connecticut, 310 U.S. 296 (1940).

²E. Dick Howard, Commentaries on the Constitution of Virginia, 293, N. 31 (1974).

³Illinois ex rel. McCollum v. Board of Education, 333 U.S. 203, 227 (1948)

⁴Id. at 227.

⁵12 Henning 84, 85 (1823)

⁶Va. Code Ann., Sec. 57-1 (Repl. Vol. 1981)

⁷Engel v. Vitale, 370 U.S. 421 (1962)

⁸School District of Abington v. Schempp, 374 U.S. 203 (1963)

⁹Zoren v. Clausen, 343 U.S. 306 (1952)

¹⁰Schempp, at 225

¹¹Stone v. Graham 449 U.S. 39, 40 (1980), citing Lemon v. Kurtzman, 403 U.S. 602, 612-13 (1971), reh. denied 404 U.S. 876, aff'd 411 U.S. 192. See also Widmar v. Vincent, 454 U.S. 263 (1981).

HIGHLIGHTS FROM THE BOARD OF DIRECTORS APRIL MEETING

On April 6, 1984 the Board of Directors met in Richmond, Virginia. Several issues were discussed and decided at the meeting.

- Efforts are underway by the Membership Committee to recruit new members. Those efforts include spring luncheons, development of a membership brochure, and a membership solicitation packet to be sent in May to prospective members.
- The Judiciary Committee announced the following judicial endorsements: Gail Starling Marshall, as an additional Intermediate Court of Appeals candidate; Alfred Swersky and Donald Hadlock as qualified candidates for the position of Alexandria Circuit Court Judge.
- The Board voted to hold the Annual Conference at the Sheraton International Conference Center in Reston, Virginia on October 11-13, 1984. A significant portion of the program will be specifically directed to the particular needs and interests of women attorneys.

Legislative Conference

(CONTINUED FROM PAGE 1)

Joan Gibson and Randy Paris listen to comments at the Legislative Conference.



this agenda in the General Assembly. It was felt that the best way to accomplish this was for the Legislative committee to divide itself into three sub-committees with each committee concentrating on items which are interconnected.

Teena Grodner agreed to chair a sub-committee which will deal with legislative items related to the new Virginia Equitable Distribution Act passed in 1982. Many items selected for the agenda dealt with problems and unanswered questions about this relatively new law. Randy Parris and Sylvia Clute will have a sub-heading which will deal with the question of fault and the issue of irretrievable breakdown. Darrel Tillar will chair a sub-committee which will deal with child support, paternity issues, wage assignments and opposition to institution of fees in Juvenile and Domestic Relations Courts. The final sub-committee will be chaired by Barbara Ziony and will deal with the area of public benefits law as most people affected by public benefits laws are poor women and children. This will include such issues as the poor debtor's exemption, funding for legal aid, medicaid and ADC benefits.

Individual items such as comparable worth will be followed by Sandy Schneider and the probate code revision by Catherine Johnson. Other individuals who would like to work on these committees are welcome and should contact Catherine Johnson.

The above agenda and its organization are subject to ratification at the VWAA Board meeting on June 16, 1984. To be effective, this agenda must be set in the summer so it can be worked on and prepared for the General Assembly in January, 1985. A report of the legislative committee will be given at the October meeting but the agenda will not be discussed at the meeting.

This report was submitted by Catherine D. Johnson, Legislative Chair, 1200 Peachtree Blvd., Richmond, VA 23226.

VWAA Establishes Liaison with National Association of Women's Judges

At the February meeting of the VWAA Board, Dulcey B. Fowler was selected as the VWAA liaison with the NAWJ. This is her report.

The National Association of Women Judges was founded in 1979. Why did women judges feel a need to organize? According to Joan Dempsey Klein, a founder and first president, it was partly the realization that, of the nation's 15,000 judges at that time, only 727 were women. But also it was generally felt that there was a need for a network, particularly one devoted to encouraging women to aspire to the bench.¹

Klein, a California Supreme Court justice, told the Washington Post on October 4, 1980, that men, particularly through the male-dominated American Bar Association, recommend each other for judgeships, look out for each other's interest, help along each other's sons and nephews. "We have to build a network, too. Of course we all belong to men's professional groups, and that's important. We need them. But we also need to develop our own power."²

In 1982, Gladys Kessler, presiding judge of the Family Division, D.C. Superior Court, was NAWJ President. On July 29, 1983, she made a stirring speech to the ABA's Judicial Administration Division about the need for more women and minorities on the federal bench. She reported on a study showing that female nominees for the federal bench equaled white male nominees in every way except that female nominees far outstripped male nominees in academic honors. She asserted that there can be no publicly perceived excellence within the judiciary until it sheds its image of being overwhelmingly composed of white male lawyers from major law firm or prosecutors' office.³

NAWJ Region 4 includes Virginia, and NAWJ members were very helpful in helping found the VWAA. Judge Norma Johnson, U.S. District Judge for D.C., helped find speakers for our early meetings. U.S. Tax Court Judge Edna Parker spoke to our very first meeting during the Virginia State Bar meeting in 1981, and Judge Patricia Wald, U.S. Circuit Judge for D.C., spoke at our second annual meeting in 1982 at Wintergreen Resort. Administrative Law Judge Joan Thompson spoke at our annual meeting in October, 1983. Administrative Law Judge Brenda Murray of the Federal Energy Regulatory Commission has also been extremely helpful.

As VWAA liaison with the NAWJ, I hope that we can continue to work closely with that dynamic organization. I will welcome members' suggestions about how we can achieve even greater cooperation.

¹Washington Post, Oct. 4, 1980, at F 1, col. 3.

²Id.

³Kessler, Affirmative Action Can Mean the Best Person for the Job, JUDGES JOURNAL, Fall 1983, at 12.

CORRECTION

Miranda A. Turner, author of "Surfacing The Hidden Offense: Adolescent Abuse" published in Lex Claudia Vol. III, No. 2, March 1984, a University of Florida law graduate, underwrites Worker's Compensation and liability insurance coverage of CIGNA Corporation in Richmond and does not represent it in an attorney capacity as previously indicated.

LEGISLATIVE REPORT FROM THE 1984 GENERAL ASSEMBLY

This is a summary of bills which were considered by the 1984 General Assembly, some of which were on the VWAA legislative agenda and some which will be of general interest to the members of the VWAA.

DOMESTIC RELATIONS

Two bills, H.B. 307 (Callahan) and H.B. 651 (Watts) sought to increase the age limits for support of children who are full time students in secondary, vocational, or technical school. Many children turn age 19 while still in high school. However, the duty of support, when a couple is divorced, ceases at age 18. This duty of support would have continued under H.B. 651 until age 19, and under H.B. 307 would have continued while the child was still in school. H.B. 307 was passed by indefinitely and H.B. 651 had no action taken upon it.

S.B. 431 (Gartlan) dealt with the area of violence between husband and wife. Under this bill the J & D courts would be able to grant an ex parte injunction when there was physical violence or the threat of such violence. The ex parte injunction would have a limit of 15 days, after which time both parties would have to appear in court if the injunction were to be continued. The injunction could be granted for up to one year. The major change that this law permits is that the parties do not have to be in the process of divorce for this injunction to be granted. This bill was passed.

The question of pension rights in a divorce proceeding was also before the General Assembly in several bills. H.B. 358 and S.B. 257 related to federal military pensions and would classify them as marital property if the requirements of federal law were met. The court could then authorize payment of a certain percentage to the non-member spouse in satisfaction of part or all, of any monetary award allowed by the court. S.B. 257 was carried over. H.B. 993 (Cody) permits the court to consider pension and retirement plans based on military or civil government services when making a support award. This bill was passed.

Once again a bill relating to fault in divorce cases in regard to making support awards was introduced. This was S.B. 119 (Mitchell) which would have eliminated fault as a bar to granting a support award. It would have permitted the court to consider it as a factor in the decision to make the award, but would not make it an absolute bar as it is under the current law. This bill did not pass.

H.B. 564 (Creekmore) further defines marital property under the Virginia Code. The bill defines marital property for purposes of equitable distribution as including all property acquired by the parties after their marriage and before the filing of a bill of complaint for divorce. This bill passed.

S.B. 77 (Michie) deals with evidence required to prove paternity and who will pay for the tests (HLA). The bill states that the party who does not win may be required to pay for the test (which usually costs around \$700). This bill did not pass. Also at issue was whether the standard of proof would be civil or criminal.

As we all are well aware there was much debate on whether to fund the Intermediate Court of Appeals for Virginia. S.B. 13 (Emick) and H.B. 252 (Jester) introduced legislation to repeal the court and other bills were introduced to expand the number on our present Supreme Court. No judges have been appointed to the intermediate court as the members of the General Assembly cannot decide how they wish to appoint the members. It was thought they might appoint the members at the legislative veto session (April 15) but so far none have been made.

Another issue on our legislative agenda was the program of Aid to

Dependent Children. The economic guidelines set to qualify for this program were set in 1974 and have only been revised upward 15%, while the level of inflation has risen 98% since 1974. Under federal government poverty guidelines a family four in 1982 is considered below the poverty level if their income is under \$9,862. But in Virginia since we have not appreciably raised our poverty guidelines a family of four to qualify for ADC payments would have to have an income under \$5,000. The General Assembly did give ADC families a 5% increase in the amount of money that they will receive but did not raise the poverty guidelines. Depending upon where in Virginia that family lives it will amount to a cash benefit per month of \$10.00 to \$15.00.!

House Joint Resolution No. 35 otherwise known as the pay equity study was also considered by the 1984 General Assembly. The original resolution called for the Virginia Commission on the Status of Women to do the study with a \$60,000 grant from the state. The study was modified in that the Secretary of Administration and the Office of Planning and Budget will now conduct the study. Pay equity is related to the question of comparable worth, issues are how to compare jobs and how to set the pay scale for a job. The study will be done by a consultant hired to come in and look at the state's salary structure and classifications, and to propose a plan on how to change the system and to place comparable worth into the state system.

H.B. 957 (Terry), and H.B. 886 (Yahres) dealt with the "poor debtor's" exemption to modify it to permit a car valued at no more than \$1500 (H.B. 957) or \$3000 (H.B. 886) to be excluded from the collection process. Both of these bills were killed in committee. The argument raised by opponents was that a car could be exempted under the \$5,000 homestead exemption. However, it must be pointed out that the homestead exemption is usually waived automatically in contracts to purchase items such as cars. The result is often that a wage earner is deprived of his only form of transportation to and from work.

S.D. No. 9, officially titled "Interim Report of the Joint Committee Studying Virginia Law as it affects Transfer of Property at Death" made it through the House of Delegates but was not so fortunate in the Senate where it was killed in committee. The Virginia Bar Association had worked with this committee during the time that it met and studied the problems of inheritance in Virginia and lobbied to have the study continued but to no avail. For a further discussion of the problem see *Lex Claudia*, Vol. III, No. 2 (March, 1984) page 5.

This is just a brief highlight of bills which were before the 1984 General Assembly. If you would like further information on bills before the Assembly you may order a 30 page overview of legislation from Legislative Automated Systems, P.O. Box 654, Richmond, Va. 23208 for \$1.50. Your local Virginia Delegate or Senator also has a large book of bills which were passed and he/she will usually let you go through this book picking out legislation which is of interest to you. You may also write Del. Mary Marshall, 2256 N. Wakefield Street, Arlington, Va. 22207 and request her "Synopsis of Women's Bills".

Catherine D. Johnson, Legislative Committee Chair and attorney in Richmond, prepared this report in conjunction with Muriel Smith, the VWAA's 1984 Legislative Monitor.

INSURANCE:

AGENTS PROHIBITED FROM DISCRIMINATORY ISSUANCE OF AUTOMOBILE POLICIES

Sections 38.1-381.6 and 38.1-381.8 of the Code of Virginia now forbid an agent from refusing to issue an automobile insurance policy solely because of age, sex, residence, race, color, creed, national origin, ancestry, marital status or occupation.

This is a recent expansion of the statute. Previously, only the insurer was prohibited from engaging in discriminatory practices. Now an agent may be held liable as well.

COVERAGE FOR PUNITIVE DAMAGES NOT AGAINST PUBLIC POLICY

Effective October 1, 1983, individuals may purchase insurance to cover punitive damage awards for death or injury claims resulting from their negligence, but not from their intentional acts.

This new law is deemed to be declaratory of existing policy. However, the Bureau of Insurance reportedly has interpreted this to indicate companies will now be paying for punitive damages unless the standard liability policy forms are changed. If policies are revised to exclude such coverage, it could then be made available as an endorsement.

The general response by insurance carriers is a wait-and-see approach. No company has confirmed interpretations that it will pay punitive damage awards.

The test of the industry's position will most likely occur when an insurer is challenged by an insured seeking indemnification for punitive damage payments. It has been suggested that some carriers will fight such a claim, relying on judicial interpretation to mandate its duties under the new bill.

PRIVATE ATTORNEYS SOUGHT FOR PRO BONO PROGRAM

The Virginia Poverty Law Center (VPLC), the state support center for the legal aid societies in Virginia, is seeking the aid of private attorneys around the state in performing its services. VPLC provides training and assistance with litigation and research on the cases of legal aid attorneys and paralegals which involve complex or evolving legal theories. VPLC also publishes a monthly review of case summaries, announcements, and other items relevant to legal aid practice.

The demand for VPLC services far exceeds the office's ability to respond. The 13 legal aid societies in Virginia turn to the 3 VPLC attorneys and half time training coordinator for help. Staff attorney Jill Hanken, works in the areas of public benefits and legal issues affecting the elderly. Deborah Oswalt, also a staff attorney, covers domestic relations and employment issues. The director, Jane Schukoske, staffs the areas of housing and consumer law.

You can help by agreeing to train on a topic within your area of practice or to assist in the research for or litigation of a case. In the past, VPLC has enlisted the aid of private attorneys in evaluating and setting strategy for a 1983 case and for training in a NITA-type training session.

For more information contact Jane Schukoske, Executive Director, VPLC, 700 East Main St., Suite 200, Richmond, VA 23219 (804) 782-9430.

JOIN THE VWAA

Membership in the VWAA brings you a voice in the activities of the statewide association for Women Attorneys in Virginia, *Lex Claudia* quarterly, Judicial and Legislative activities, reduced rates for the annual conference, a statewide membership directory, among other benefits. Join today! Write or call VWAA at 11800 Sunrise Valley Drive, Reston, VA 22091. (202) 682-1559.

CHANGES IN LEX CLAUDIA

Beginning with this June issue of *Lex Claudia*, Felix & Associates is handling the layout, printing and mailing of the newsletter. Please let us know your comments and suggestions on the new format. Advertising will now be carried in *Lex Claudia* to help defray the cost of the newsletter. Please refer potential advertisers to Jane Dockery, VWAA, care of Felix & Associates, 11800 Sunrise Valley Drive, Reston, VA 22091, (202) 682-1559. The newsletter will be available at a subscription rate of \$15 per year. Contact Felix & Associates with information about address changes, subscriptions, and questions about receipt of the newsletter.

Continue to send me your articles, ideas for future issues, job tips and other news:

Jane Schukoske, Editor, 5707 Park Avenue, Richmond, VA 23226. Home (804) 282-8225, Work (804) 782-9430.

JOIN THE VWAA SPEAKERS BUREAU

The VWAA Speakers Bureau is a group of 80 participating attorneys from around the Commonwealth. These women appear free of charge before community groups who request a speaker on a legal topic.

If you know of a group interested in a speaker on a legal topic, refer the organization to the appropriate VWAA regional representative. She has a list of the participants for your region and will assist in matching the speaker to the topic desired.

To sign up for the Speakers Bureau, contact Jane Dockery, Virginia Women Attorneys Association, 11800 Sunrise Valley Drive, Reston, VA 22091 (202) 682-1559. To check on the availability of speaking engagements, contact your regional representative. (See list on last page of this issue.) Spread the word about the Speakers Bureau in your area.

NETWORKING NEWS

Readers are invited to submit professional news about members of the VWAA for this column.

Gwendolyn Jo M. Carlberg of Alexandria has been elected president of the Alexandria Chamber of Commerce.

Betty A. Thompson, an Arlington solo practitioner, has been invited to become a fellow in the International Academy of Trial Lawyers. She is the first U.S. woman to be elected into the academy. Membership in the academy, which is by invitation only, is limited to a maximum of 500 U.S. members.

Thompson has practiced law in Arlington since 1950. She is a trustee of the Roscoe Pound Foundation of American Trial Lawyers and the Melvin M. Belli Society; is a member and past president of the Arlington County Bar Association, the American Bar Association, and the Virginia State Bar, is past president of the Northern Virginia Trial Lawyers' Association, and belongs to the professional societies of Phi Delta Delta and Delta Theta Phi.

Virginia Delegate Reflects On Pioneer Experience

Delegate Yvonne B. Miller enjoys the distinction of being the first Black woman to serve in the Virginia General Assembly. However, like most freshmen legislators, her first assignment was to "listen and learn."

Ms. Miller, who ran unopposed in the 1983 general election, cited her active participation in local politics, community service, higher education and religious affairs as factors contributing to her electability when the Norfolk community was in need of a viable Democratic candidate.

Her first term in office became an "intense learning experience." Ms. Miller discovered that although her colleagues were generally kind on a personal basis, they could and would fight hard for their issues. She also learned quickly that hard work and judicious use of speaking privileges are admirable attributes for a newcomer.

The delegate emphasized the need to learn the players. She noted that one vote alone never carries a bill and that once committed to being a part of the legislative process, it is imperative to work within the system, not against it. She also observed the practicality of working issue by issue, as an adversary on one bill very possibly could be an ally on another.

Ms. Miller also expressed that involvement in social activities is critical since that is where business is conducted. Yet she has relied on her early development of coping skills plus her firm religious background to sustain her moral convictions amidst the diversity of Virginia's social/political demands.

Some of the delegate's legislative concerns include(d) passage of the Martin Luther King holiday, the transfer of regulation for profit day care centers from the Welfare and Social Services to the Commerce Department and the continuation of appropriations for Virginia's Division for Children.

Currently she sits on the Education Committee, the Health, Welfare and Institutions Committee and the Militia and Police Committee. Ms. Miller appeared to be most poignantly touched by Delegate William P. Robinson's willingness to relinquish his seniority on the Education Committee so that she could serve in her area of expertise. She is head of the Department of Early Childhood/Elementary Education at Norfolk State University. She commented that women must realize their positions are not always adversarial to the male position and much can be gained by working together.

Miranda Turner, who interviewed Delegate Miller and wrote the above report, is employed at CIGNA Corporation in Richmond.

VA. SUPREME COURT AFFIRMS ATTEMPTED RAPE CONVICTION OF HUSBAND

The Virginia Supreme Court ruled in the case of *Commonwealth v. Weishaupt*, 227 V.R.R. 417,277 Va. ___ (1984), that "a wife can unilaterally revoke her implied consent to marital sex" and upheld the conviction of a husband found guilty of attempted rape of his wife. The ruling was handed down on April 27, 1984, in a 20-page opinion written by Justice John Charles Thomas.

The husband and wife in the case before the court had lived separate and apart for over a year at the time of the attack, according to the evidence in the record. The husband was said to have charged into his wife's apartment, and while his wife screamed and resisted, had intercourse with her.

The court majority opinion held that rape during marriage can occur when the wife "has made manifest her intent to terminate the marital relationship by living separate and apart from her husband; refraining from voluntary intercourse with her husband; and, in light of all the circumstances, conducting herself in a manner that establishes a[n] . . . end to the marriage."

Justice A. Christian Compton, in a concurring opinion, stated that the decision "specifically is limited to the precise facts of this case in which there was continuous separation by the wife from the husband for a substantial period of time, no sexual intercourse during the period, and additional objective evidence supporting an intention by the wife permanently to separate from the husband. . ."

The concurring opinion noted that "the flood gates have not been opened for the prosecution of husbands for the alleged rapes of their wives."



**PROTECTION
SERVICE
INTEGRITY
RELIABILITY
EXPERIENCE**



**Now, A Unique, Innovative Approach to Professional Liability
Covers Exclusively for You, the Virginia Lawyer.**

INNOVATION!

The Virginia State Bar, in conjunction with its experienced insurance program Administrator, since 1958, **Alsop & Elliott of Virginia, Ltd.**, is pleased to announce an innovative approach to professional liability coverages for the Virginia attorney. An important new approach to controlling the costs of this valuable coverage.

Through an arrangement with The Virginia Insur-

ance Reciprocal, you can participate in the favorable experience of your own plan, both from underwriting results as well as investment income.

You can enjoy a good experience refund as well as outstanding, comprehensive, competitive coverage in a program designed by Virginia lawyers for you, **The Virginia Lawyer.**

OUTSTANDING PROGRAM HIGHLIGHTS BENEFITS

- Competitive rates with comprehensive coverages
- Immediate local claims service
- Availability of high limits of liability—deductible options.
- Sharing in the profits of the company, based on Virginia experience only, which historically has been profitable.
- Coverage is placed with a stable, financially sound, non-assessable Virginia company, fully reinsured by a carrier with the highest A.M. Best Company Rating, A+XV.
- Full prior acts coverage including acts of predecessor firms. **Continuity.**
- Free lifetime extended reporting period should you become disabled or die.
- Pays for Defense Cost in addition to the policy's liability limit.
- Non Cancellation clause
- Coverage is placed with a stable, financially sound, non-assessable Virginia company, fully reinsured by a carrier with the highest A.M. Best Company Rating, A+XV.
- World-wide, fiduciary, securities, personal injury, advertiser's coverages
- As a policyholder, you receive free loss prevention and claims repair. In-state malpractice prevention seminars. Toll Free telephone service for questions, consultation.
- Should you desire to procure this valuable coverage through your local insurance agent, we will work in conjunction with him, have him contact us.
- Flexibility
- Many Other Benefits.

For immediate information, phone, send business card or mail this coupon to:

ALSOP & ELLIOTT OF VIRGINIA, LTD.
6620 WEST BRADDOCK STREET
P.O. BOX 8287
RICHMOND, VIRGINIA 23226
(804) 282-8900
NORTHHEM VA (703) 385-5811 NORFOLK AREA (804) 625-3566

Name _____
Firm _____
Address _____
City _____ State _____ Zip _____

JOB BANK

FOR DETAILS,
CONTACT THE EMPLOYER.

Charlottesville:

National legal research firm seeking attorneys for full time entry level positions. Excel. oppty. to develop expertise in various topical areas, as well as legal research & writing skills. Relocation required. Please send resumes to: Mary R. Conway, Personnel Director, NLRG, P.O. Box 7187, 2421 Ivy Rd., Charlottesville, Va. 22906. 804-977-5690.

McLean:

ATTORNEY—Min. 5 yrs. exper. corp., association, litigation, tax & gen'l. practice. Excel academic bckgrnd & effective writing skills. DC & Va. Bars. Trial. Leading to partnership in small "a.v." firm. P.O. 1096, McLean, VA 22101.

Norfolk:

POSITION AVAILABLE: Norfolk City Attorney's Office. Senior Trial Attorney, immediate opening. Experience necessary in all fields of state and federal civil trial litigation and appeals. Salary open, full fringe benefits. Send resume and writing sample to Philip R. Trapani, 908 City Hall Bldg., Norfolk, VA 23501. EEOC.

Roanoke:

Staff Attorney, Legal Aid Society of Roanoke Valley (LASRV) Contact Henry Woodward, LASRV, 312 Church Ave., S.W., Roanoke, VA 29016.

Stafford:

ASST. COUNTY ATTORNEY. Salary range \$26,973-\$40,850 with excel. benefits; salary commensurate w/exper., qualifications. Resp. for assisting the County Attorney in providing legal advice & representation to the Board of Supervisors, County Administrator, School Board, Planning Commission, Board of Zoning Appeals & other officers & agencies of the County. Assist County Attorney in representing the County in all civil matters, drafting ordinances, preparing legal documents. Assist in advising governing body, boards & staff on all major legal questions.

Position requires J.D., Va. & knowledge of local state, federal laws & court decisions affecting local government. Exper. as a practicing attorney in civil, administrative or municipal law pref. Must be tactful, able to

deal effectively with public groups, key executives of private industry & public officials. Ability to analyse problems, recommend actions for their solution.

Apply with resume by June 15th, to Robert W. Clark, Director of Personnel, PO Box 339, Stafford, Va. 22554-0339. (703) 659-8628.

Tappahannock:

Managing Attorney, Rappahannock Legal Services (RLS). Va. bar, litigation exp. nec. Salary \$19,000 D.O.E. Contact: M.M. Deadman, RLS, 910 Princess Anne St., Fredericksburg, VA 22401.

Virginia & Maryland Area:

Hyatt Legal Services is the largest personal services law firm in the country. We are also the fastest growing. Career oppty. are available for exper'd. attorneys in the Md. & Va. area who enjoy client contact and are dedicated to providing quality legal services. Our proven concept bases your reward on your performance. Managing attorneys receive a bonus based on ofc. results. Successful business exper. is a plus. Send resumes to: Mary Lou Yanda, Esq.; Hyatt Legal Services, 1701 K St., N.W., Washington, D.C. 20006.

Virginia Beach:

POSITION AVAILABLE: Fast-growing, mid-sized firm with a sophisticated practice in the Tidewater area seeks associate with 2-3 years' experience for a commercial/real Estate/corporate position. Send resume to T.R. Frantz, 900 Sovran Bank Building, Virginia Beach, VA 23462.*

The Marine Corps needs a few good lawyers. If you are under 31, in good physical shape and desire challenge, responsibility and immediate courtroom experience, call 1-800-552-9548 (in VA). You may be eligible to earn approximately \$27,000 eighteen months after you are commissioned.*

Bank list vacancies open in the State of Virginia. Please submit items to Jane Dockery at VWAA Headquarters.

*Reprinted from the Virginia Bar News.

June 1984, Volume III, Issue 3

VWAA BOARD OF DIRECTORS

Joan W. Gibson, President; Randy Parris, Vice President; Teena Grodner, Secretary; Darrel L. Tillar, Treasurer; Kathleen O'Brien, Region I Representative (Northern Virginia); Morgan Brooke-Devlin, Region II Representative (Tidewater); Jane S. Rosenthal, Region III Representative (Richmond); Elizabeth H. Woodard, Region IV Representative (Shenandoah Valley); Melinda Carter Penn, Regional V Representative (Southwest); Marged Harris, At-Large Representative; Susan Winstead, At-Large Representative; Janice Brice, At-Large Representative; Patricia Barton, At-Large Representative; Sylvia Clute, At-Large Representative; Eliza Williams Hoover, At-Large Representative; Rebecca B. Smith, At-Large Representative; Jane Schukoske, Newsletter Editor; Mary Owensby Thompson, Student Representative.

NEWSLETTER COMMITTEE

Barbara Lynn Bach, Patricia Barton, Sallie M. Gilliam, Catherine D. Johnson, Jane Schukoske, Charlotte Tsoucalas, Miranda Turner, Barbara Wadsworth.

LEX CLAUDIA CONTRIBUTIONS

Articles, news items and other submissions for further issues are welcome. Send them to Jane Schukoske, 5707 Park Avenue, Richmond, Virginia 23226.

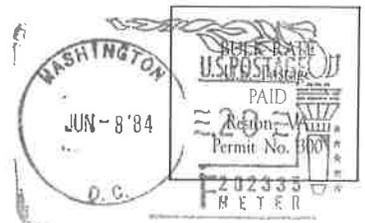
The deadline for the next issue of Lex Claudia is August 1, 1984.

*Virginia
Women
Attorneys
Association*

*Virginia
Women
Attorneys
Association*

11800 Sunrise Valley Drive
Reston, VA 22091

Darrel Long Tillar
Long & Long
PO Box 196
Blacksburg, VA 24060



ADDRESS CORRECTION

If you change your address, please notify VWAA, 11800 Sunrise Valley Drive, Reston, VA 22091.