116 S.Ct. 2264
Supreme Court of the United States
UNITED STATES, Petitioner,
v.
VIRGINIA et al.

Argued Jan. 17, 1996.
Decided June 26, 1996.

GINSBURG, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, KENNEDY, SOUTER, and BREYER, JJ., joined. REHNQUIST, C.J., filed an opinion concurring in the judgment, *post,* p. 2287. SCALIA, J., filed a dissenting opinion, *post,* p. 2291. THOMAS, J., took no part in the consideration or decision of the case.

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Opinion
***519** Justice GINSBURG delivered the opinion of the Court.
Virginia's public institutions of higher learning include an incomparable military college, Virginia Military Institute (VMI). The United States maintains that the Constitution's equal protection guarantee precludes Virginia from reserving exclusively to men the unique educational opportunities VMI affords. We agree.

***520**
I

Founded in 1839, VMI is today the sole single-sex school among Virginia's 15 public institutions of higher learning. VMI's distinctive mission is to produce "citizen-soldiers," men prepared for leadership in civilian life and in military service. VMI pursues this mission through pervasive training of a kind not available anywhere else in Virginia. Assigning prime place to character development, VMI uses an "adversative method" modeled on English public schools and once characteristic of military instruction. VMI constantly endeavors to instill physical and mental discipline in its cadets and impart to them a strong moral code. The school's graduates leave VMI with heightened comprehension of their capacity to deal with duress and stress, and a large sense of accomplishment for completing the hazardous course.

VMI has notably succeeded in its mission to produce leaders; among its alumni are military generals, Members of Congress, and business executives. The school's alumni overwhelmingly perceive that their VMI training helped them to realize their personal goals. VMI's endowment reflects the loyalty of its graduates; VMI has the largest per-student endowment of all public undergraduate institutions in the Nation.

Neither the goal of producing citizen-soldiers nor VMI's implementing methodology is inherently unsuitable to women. And the school's impressive record in producing leaders has made admission desirable to some women. Nevertheless, Virginia has elected to preserve exclusively for men the advantages and opportunities a VMI education affords.

II

A

From its establishment in 1839 as one of the Nation's first state military colleges, see ****2270** 1839 Va. Acts, ch. 20, VMI has remained financially supported by Virginia and "subject to ***521** the control of the [Virginia] General Assembly," Va.Code Ann. § 23–92 (1993). First southern college to teach engineering and industrial chemistry, see H. Wise, Drawing Out the Man: The VMI Story 13 (1978) (The VMI Story), VMI once provided teachers for the Commonwealth's schools, see 1842 Va. Acts, ch. 24, § 2 (requiring every cadet to teach in one of the Commonwealth's schools for a 2–year period).[1] Civil War strife threatened the school's vitality, but a resourceful superintendent regained legislative support by highlighting "VMI's great potential[,] through its technical know-how," to advance Virginia's postwar recovery. The VMI Story 47.

VMI today enrolls about 1,300 men as cadets.[2] Its academic offerings in the liberal arts, sciences, and engineering are also available at other public colleges and universities in Virginia. But VMI's mission is special. It is the mission of the school

> " 'to produce educated and honorable men, prepared for the varied work of civil life, imbued with love of learning, confident in the functions and attitudes of leadership, possessing a high sense of public service, advocates of the American democracy and free enterprise system, and ready as citizen-soldiers to defend their country in ***522** time of national peril.' " 766 F.Supp. 1407, 1425 (W.D.Va.1991) (quoting Mission Study Committee of the VMI Board of Visitors, Report, May 16, 1986).
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> In contrast to the federal service academies, institutions maintained "to prepare cadets for career service in the armed forces," VMI's program "is directed at preparation for both military and civilian life"; "[o]nly about 15% of VMI cadets enter career military service." 766 F.Supp., at 1432.

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." *Id.,* at 1421. As one Commandant of Cadets described it, the adversative method " 'dissects the young student,' " and makes him aware of his " 'limits and capabilities,' " so that he knows " 'how far he can go with his anger, ... how much he can take under stress, ... exactly what he can do when he is physically exhausted.' " *Id.,* at 1421–1422 (quoting Col. N. Bissell).

VMI cadets live in spartan barracks where surveillance is constant and privacy nonexistent; they wear uniforms, eat together in the mess hall, and regularly participate in drills. *Id.,* at 1424, 1432. Entering students are incessantly exposed to the rat line, "an extreme form of the adversative model," comparable in intensity to Marine Corps boot camp. *Id.,* at 1422. Tormenting and punishing, the rat line bonds new cadets to their fellow sufferers and, when they have completed the 7–month experience, to their former tormentors. *Ibid.*

VMI's "adversative model" is further characterized by a hierarchical "class system" of privileges and responsibilities, a "dyke system" for assigning a senior class mentor to each entering class "rat," and a stringently enforced "honor code," which prescribes that a cadet " 'does not lie, cheat, steal nor tolerate those who do.' " *Id.,* at 1422–1423.

***523** VMI attracts some applicants because of its reputation as an extraordinarily challenging military school, and "because its ****2271** alumni are exceptionally close to the school." *Id.,* at 1421. "[W]omen have no opportunity anywhere to gain the benefits of [the system of education at VMI]." *Ibid.*

B

In 1990, prompted by a complaint filed with the Attorney General by a female high-school student seeking admission to VMI, the United States sued the Commonwealth of Virginia and VMI, alleging that VMI's exclusively male admission policy violated the Equal Protection Clause of the Fourteenth Amendment. *Id.,* at 1408.[3] Trial of the action consumed six days and involved an array of expert witnesses on each side. *Ibid.*

In the two years preceding the lawsuit, the District Court noted, VMI had received inquiries from 347 women, but had responded to none of them. *Id.,* at 1436. "[S]ome women, at least," the court said, "would want to attend the school if they had the opportunity." *Id.,* at 1414. The court further recognized that, with recruitment, VMI could "achieve at least 10% female enrollment"—"a sufficient 'critical mass' to provide the female cadets with a positive educational experience." *Id.,* at 1437–1438. And it was also established that "some women are capable of all of the individual activities required of VMI cadets." *Id.,* at 1412. In addition, experts agreed that if VMI admitted women, "the VMI ROTC experience would become a better training program from the perspective of the armed forces, because it would provide training in dealing with a mixed-gender army." *Id.,* at 1441.

The District Court ruled in favor of VMI, however, and rejected the equal protection challenge pressed by the United States. That court correctly recognized that *Mississippi Univ. for Women v. Hogan,* 458 U.S. 718, 102 S.Ct. 3331, 73 L.Ed.2d 1090 (1982), was ***524** the closest guide. 766 F.Supp., at 1410. There, this Court underscored that a party seeking to uphold government action based on sex must establish an "exceedingly persuasive justification" for the classification. *Mississippi Univ. for Women,* 458 U.S., at 724, 102 S.Ct., at 3336 (internal quotation marks omitted). To succeed, the defender of the challenged action must show "at least that the classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Ibid.* (internal quotation marks omitted).

The District Court reasoned that education in "a single-gender environment, be it male or female," yields substantial benefits. 766 F.Supp., at 1415. VMI's school for men brought diversity to an otherwise coeducational Virginia system, and that diversity was "enhanced by VMI's unique method of instruction." *Ibid.* If single-gender education for males ranks as an important governmental objective, it becomes obvious, the District Court concluded, that the *only* means of achieving the objective "is to exclude women from the all-male institution—VMI." *Ibid.*

"Women are [indeed] denied a unique educational opportunity that is available only at VMI," the District Court acknowledged. *Id.,* at 1432. But "[VMI's] single-sex status would be lost, and some aspects of the [school's] distinctive method would be altered," if women were admitted, *id.,* at 1413: "Allowance for personal privacy would have to be made," *id.,* at 1412; "[p]hysical education requirements would have to be altered, at least for the women," *id.,* at 1413; the adversative environment could not survive unmodified, *id.,* at 1412–1413. Thus, "sufficient constitutional justification" had been shown, the District Court held, "for continuing [VMI's] single-sex policy." *Id.,* at 1413.

The Court of Appeals for the Fourth Circuit disagreed and vacated the District Court's judgment. The appellate court held: "The Commonwealth of Virginia has not ... advanced any state policy by which it can justify its determination, ***525** under an announced policy of diversity, to afford VMI's unique type of program to men and not to women." 976 F.2d 890, 892 (1992).

****2272** The appeals court greeted with skepticism Virginia's assertion that it offers single-sex education at VMI as a facet of the Commonwealth's overarching and undisputed policy to advance "autonomy and diversity." The court underscored Virginia's nondiscrimination commitment: " '[I]t is extremely important that [colleges and universities] deal with faculty, staff, and students *without regard to sex, race, or ethnic origin.*' " *Id.,* at 899 (quoting 1990 Report of the Virginia Commission on the University of the 21st Century). "That statement," the Court of Appeals said, "is the only explicit one that we have found in the record in which the Commonwealth has expressed itself with respect to gender distinctions." 976 F.2d, at 899. Furthermore, the appeals court observed, in urging "diversity" to justify an all-male VMI, the Commonwealth had supplied "no explanation for the movement away from [single-sex education] in Virginia by public colleges and universities." *Ibid.* In short, the court concluded, "[a] policy of diversity which aims to provide an array of educational opportunities, including single-gender institutions, must do more than favor one gender." *Ibid.*

The parties agreed that "*some* women can meet the physical standards now imposed on men," *id.,* at 896, and the court was satisfied that "neither the goal of producing citizen soldiers nor VMI's implementing methodology is inherently unsuitable to women," *id.,* at 899. The Court of Appeals, however, accepted the District Court's finding that "at least these three aspects of VMI's program—physical training, the absence of privacy, and the adversative approach—would be materially affected by coeducation." *Id.,* at 896–897. Remanding the case, the appeals court assigned to Virginia, in the first instance, responsibility for selecting a remedial course. The court suggested these options for the Commonwealth: Admit women to VMI; establish parallel institutions ***526** or programs; or abandon state support, leaving VMI free to pursue its policies as a private institution. *Id.,* at 900. In May 1993, this Court denied certiorari. See 508 U.S. 946, 113 S.Ct. 2431, 124 L.Ed.2d 651; see also *ibid.* (opinion of SCALIA, J., noting the interlocutory posture of the litigation).

C

In response to the Fourth Circuit's ruling, Virginia proposed a parallel program for women: Virginia Women's Institute for Leadership (VWIL). The 4–year, state-sponsored undergraduate program would be located at Mary Baldwin College, a private liberal arts school for women, and would be open, initially, to about 25 to 30 students. Although VWIL would share VMI's mission—to produce "citizen-soldiers"—the VWIL program would differ, as does Mary Baldwin College, from VMI in academic offerings, methods of education, and financial resources. See 852 F.Supp. 471, 476–477 (W.D.Va.1994).

The average combined SAT score of entrants at Mary Baldwin is about 100 points lower than the score for VMI freshmen. See *id.,* at 501. Mary Baldwin's faculty holds "significantly fewer Ph.D.'s than the faculty at VMI," *id.,* at 502, and receives significantly lower salaries, see Tr. 158 (testimony of James Lott, Dean of Mary Baldwin College), reprinted in 2 App. in Nos. 94–1667 and 94–1717(CA4) (hereinafter Tr.). While VMI offers degrees in liberal arts, the sciences, and engineering, Mary Baldwin, at the time of trial, offered only bachelor of arts degrees. See 852 F.Supp., at 503. A VWIL student seeking to earn an

engineering degree could gain one, without public support, by attending Washington University in St. Louis, Missouri, for two years, paying the required private tuition. See *ibid.*

Experts in educating women at the college level composed the Task Force charged with designing the VWIL program; Task Force members were drawn from Mary Baldwin's own faculty and staff. *Id.,* at 476. Training its attention on methods of instruction appropriate for "most women," the ***527** Task Force determined that a military model would be "wholly inappropriate" for VWIL. *Ibid.;* see 44 F.3d 1229, 1233 (C.A.4 1995).

VWIL students would participate in ROTC programs and a newly established, "largely ceremonial" Virginia Corps of Cadets, *id.,* at 1234, but the VWIL House would not have a military format, 852 F.Supp., at 477, and ****2273** VWIL would not require its students to eat meals together or to wear uniforms during the schoolday, *id.,* at 495. In lieu of VMI's adversative method, the VWIL Task Force favored "a cooperative method which reinforces self-esteem." *Id.,* at 476. In addition to the standard bachelor of arts program offered at Mary Baldwin, VWIL students would take courses in leadership, complete an off-campus leadership externship, participate in community service projects, and assist in arranging a speaker series. See 44 F.3d, at 1234.

Virginia represented that it will provide equal financial support for in-state VWIL students and VMI cadets, 852 F.Supp., at 483, and the VMI Foundation agreed to supply a $5.4625 million endowment for the VWIL program, *id.,* at 499. Mary Baldwin's own endowment is about $19 million; VMI's is $131 million. *Id.,* at 503. Mary Baldwin will add $35 million to its endowment based on future commitments; VMI will add $220 million. *Ibid.* The VMI Alumni Association has developed a network of employers interested in hiring VMI graduates. The Association has agreed to open its network to VWIL graduates, *id.,* at 499, but those graduates will not have the advantage afforded by a VMI degree.

D

Virginia returned to the District Court seeking approval of its proposed remedial plan, and the court decided the plan met the requirements of the Equal Protection Clause. *Id.,* at 473. The District Court again acknowledged evidentiary support for these determinations: "[T]he VMI methodology could be used to educate women and, in fact, some ***528** women ... may prefer the VMI methodology to the VWIL methodology." *Id.,* at 481. But the "controlling legal principles," the District Court decided, "do not require the Commonwealth to provide a mirror image VMI for women." *Ibid.* The court anticipated that the two schools would "achieve substantially similar outcomes." *Ibid.* It concluded: "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." *Id.,* at 484.

A divided Court of Appeals affirmed the District Court's judgment. 44 F.3d 1229 (C.A.4 1995). This time, the appellate court determined to give "greater scrutiny to the selection of means than to the [Commonwealth's] proffered objective." *Id.,* at 1236. The official objective or purpose, the court said, should be reviewed deferentially. *Ibid.* Respect for the "legislative will," the court reasoned, meant that the judiciary should take a "cautious approach," inquiring into the "legitima[cy]" of the governmental objective and refusing approval for any purpose revealed to be "pernicious." *Ibid.*

"[P]roviding the option of a single-gender college education may be considered a legitimate and important aspect of a public system of higher education," the appeals court observed, *id.,* at 1238; that objective, the court added, is "not pernicious," *id.,* at 1239. Moreover, the court continued, the adversative method vital to a VMI education "has never been tolerated in a sexually heterogeneous environment." *Ibid.* The method itself "was not designed to exclude women," the court noted, but women could not be accommodated in the VMI program, the court believed, for female participation in VMI's adversative training "would destroy ... any sense of decency that still permeates the relationship between the sexes." *Ibid.*

Having determined, deferentially, the legitimacy of Virginia's purpose, the court considered the question of means. ***529** Exclusion of "men at Mary Baldwin College and women at VMI," the court said, was essential to Virginia's purpose, for without such exclusion, the Commonwealth could not "accomplish [its] objective of providing single-gender education." *Ibid.*

The court recognized that, as it analyzed the case, means merged into end, and the merger risked "bypass[ing] any equal protection scrutiny." *Id.,* at 1237. The court therefore added another inquiry, a decisive test it called "substantive comparability." *Ibid.* The key question, the court said, was whether men at VMI and women at VWIL would obtain "substantively comparable benefits at their institution or through other ****2274** means offered by the [S]tate." *Ibid.* Although the appeals court recognized that the VWIL degree "lacks the historical benefit and prestige" of a VMI degree, it nevertheless found the educational opportunities at the two schools "sufficiently comparable." *Id.,* at 1241.

Senior Circuit Judge Phillips dissented. The court, in his judgment, had not held Virginia to the burden of showing an " 'exceedingly persuasive [justification]' " for the Commonwealth's action. *Id.,* at 1247 (quoting *Mississippi Univ. for Women,* 458 U.S., at 724, 102 S.Ct., at 3336). In Judge Phillips' view, the court had accepted "rationalizations compelled by the exigencies of this litigation," and had not confronted the Commonwealth's "actual overriding purpose." 44 F.3d, at 1247. That purpose, Judge Phillips said, was clear from the historical record; it was "not to create a new type of educational opportunity for women, ... nor to further diversify the Commonwealth's higher education system[,] ... but [was] simply ... to allow VMI to continue to exclude women in order to preserve its historic character and mission." *Ibid.*

Judge Phillips suggested that the Commonwealth would satisfy the Constitution's equal protection requirement if it "simultaneously opened single-gender undergraduate institutions having substantially comparable curricular and extra-curricular programs, funding, physical plant, administration ***530** and support services, and faculty and library resources." *Id.,* at 1250. But he thought it evident that the proposed VWIL program, in comparison to VMI, fell "far short ... from providing substantially equal tangible and intangible educational benefits to men and women." *Ibid.*

The Fourth Circuit denied rehearing en banc. 52 F.3d 90 (1995). Circuit Judge Motz, joined by Circuit Judges Hall, Murnaghan, and Michael, filed a dissenting opinion.[4] Judge Motz agreed with Judge Phillips that Virginia had not shown an " 'exceedingly persuasive justification' " for the disparate opportunities the Commonwealth supported. *Id.,* at 92 (quoting *Mississippi Univ. for Women,* 458 U.S., at 724, 102 S.Ct., at 3336). She asked: "[H]ow can a degree from a yet to be implemented supplemental program at Mary Baldwin be held 'substantively comparable' to a degree from a venerable Virginia military institution that was established more than 150 years ago?" 52 F.3d, at 93. "Women need not be guaranteed equal 'results,' " Judge Motz said, "but the Equal Protection Clause does require equal opportunity ... [and] that opportunity is being denied here." *Ibid.*

III

The cross-petitions in this suit present two ultimate issues. First, does Virginia's exclusion of women from the educational opportunities provided by VMI—extraordinary opportunities for military training and civilian leadership development—deny to women "capable of all of the individual activities required of VMI cadets," 766 F.Supp., at 1412, the equal protection of the laws guaranteed by the Fourteenth Amendment? Second, if VMI's "unique" situation, *id.,* at 1413—as Virginia's sole single-sex public institution of ***531** higher education—offends the Constitution's equal protection principle, what is the remedial requirement?

IV

[1] We note, once again, the core instruction of this Court's pathmarking decisions in *J.E.B. v. Alabama ex rel. T. B.,* 511 U.S. 127, 136–137, and n. 6, 114 S.Ct. 1419, 1425–1426, and n. 6, 128 L.Ed.2d 89 (1994), and *Mississippi Univ. for Women,* 458 U.S., at 724, 102 S.Ct., at 3336 (internal quotation marks omitted): Parties who seek to defend gender-based government action must demonstrate an "exceedingly persuasive justification" for that action.

Today's skeptical scrutiny of official action denying rights or opportunities based on sex responds to volumes of history. As a plurality of this Court acknowledged a generation ago, "our Nation has had a long and unfortunate ****2275** history of sex discrimination." *Frontiero v. Richardson,* 411 U.S. 677, 684, 93 S.Ct. 1764, 1769, 36 L.Ed.2d 583 (1973). Through a century plus three decades and more of that history, women did not count among voters composing "We the People";[5] not until 1920 did women gain a constitutional right to the franchise. *Id.,* at 685, 93 S.Ct., at 1769–1770. And for a half century thereafter, it remained the prevailing doctrine that government, both federal and state, could withhold from women opportunities accorded men so long as any "basis in reason" could be conceived for the discrimination. See, *e.g., Goesaert v. Cleary,* 335 U.S. 464, 467, 69 S.Ct. 198, 200, 93 L.Ed. 163 (1948) (rejecting challenge of female tavern owner and her daughter to Michigan law denying bartender licenses to females—except for wives and daughters of male tavern owners; Court would not "give ear" to the contention that "an unchivalrous desire of male ***532** bartenders to ... monopolize the calling" prompted the legislation).

In 1971, for the first time in our Nation's history, this Court ruled in favor of a woman who complained that her State had denied her the equal protection of its laws. *Reed v. Reed,* 404 U.S. 71, 73, 92 S.Ct. 251, 252–253, 30 L.Ed.2d 225 (holding unconstitutional Idaho Code prescription that, among " 'several persons claiming and equally entitled to administer [a decedent's estate], males must be preferred to females' "). Since *Reed,* the Court has repeatedly recognized that neither federal nor state government acts compatibly with the equal protection principle when a law or official policy denies to women, simply because they are women, full citizenship stature—equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities. See, *e.g., Kirchberg v. Feenstra,* 450 U.S. 455, 462–463, 101 S.Ct. 1195, 1199–1200, 67 L.Ed.2d 428 (1981) (affirming invalidity of Louisiana law that made husband "head and master" of property jointly owned with his wife, giving him unilateral right to dispose of such property without his wife's consent); *Stanton v. Stanton,* 421 U.S. 7, 95 S.Ct. 1373, 43 L.Ed.2d 688 (1975) (invalidating Utah requirement that parents support boys until age 21, girls only until age 18).

[2] [3] [4] [5] Without equating gender classifications, for all purposes, to classifications based on race or national origin,[6] the Court, in post-*Reed* decisions, has carefully inspected official action that closes a door or denies opportunity to women (or to men). See *J.E.B.,* 511 U.S., at 152, 114 S.Ct., at 1433 (kENNEDY, J., concurring in judgment) (case law evolving since 1971 "reveal[s] a strong presumption that gender classifications are invalid"). To summarize the Court's current directions for cases of official classification based on gender: Focusing on the differential treatment ***533** for denial of opportunity for which relief is sought, the reviewing court must determine whether the proffered justification is "exceedingly persuasive." The burden of justification is demanding and it rests entirely on the State. See *Mississippi Univ. for Women,* 458 U.S., at 724, 102 S.Ct., at 3336. The State must show "at least that the [challenged] classification serves 'important governmental objectives and that the discriminatory means employed' are 'substantially related to the achievement of those objectives.' " *Ibid.* (quoting *Wengler v. Druggists Mut. Ins. Co.,* 446 U.S. 142, 150, 100 S.Ct. 1540, 1545, 64 L.Ed.2d 107 (1980)). The justification must be genuine, not hypothesized or invented *post hoc* in response to litigation. And it must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females. See ****2276** *Weinberger v. Wiesenfeld,* 420 U.S. 636, 643, 648, 95 S.Ct. 1225, 1230–1231, 1233, 43 L.Ed.2d 514 (1975); *Califano v. Goldfarb,* 430 U.S. 199, 223–224, 97 S.Ct. 1021, 1035–1036, 51 L.Ed.2d 270 (1977) (STEVENS, J., concurring in judgment).

[6] The heightened review standard our precedent establishes does not make sex a proscribed classification. Supposed "inherent differences" are no longer accepted as a ground for race or national origin classifications. See *Loving v. Virginia,* 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967). Physical differences between men and women, however, are enduring: "[T]he two sexes are not fungible; a community made up exclusively of one [sex] is different from a community composed of both." *Ballard v. United States,* 329 U.S. 187, 193, 67 S.Ct. 261, 264, 91 L.Ed. 181 (1946).

[7] "Inherent differences" between men and women, we have come to appreciate, remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity. Sex classifications may be used to compensate women "for particular economic disabilities [they have] suffered," *Califano v. Webster,* 430 U.S. 313, 320, 97 S.Ct. 1192, 1196, 51 L.Ed.2d 360 (1977) *(per curiam),* to "promot[e] equal employment opportunity," see *California Fed. Sav. & Loan Assn. v. Guerra,* 479 U.S. 272, 289, 107 S.Ct. 683, 693–694, 93 L.Ed.2d 613 (1987), to advance full development of the talent and capacities of our Nation's people.[7] ***534** But such classifications may not be used, as they once were, see *Goesaert,* 335 U.S., at 467, 69 S.Ct., at 200, to create or perpetuate the legal, social, and economic inferiority of women.

Measuring the record in this case against the review standard just described, we conclude that Virginia has shown no "exceedingly persuasive justification" for excluding all women from the citizen-soldier training afforded by VMI. We therefore affirm the Fourth Circuit's initial judgment, which held that Virginia had violated the Fourteenth Amendment's Equal Protection Clause. Because the remedy proffered by Virginia—the Mary Baldwin VWIL program—does not cure the constitutional violation, *i.e.,* it does not provide equal opportunity, we reverse the Fourth Circuit's final judgment in this case.

V

The Fourth Circuit initially held that Virginia had advanced no state policy by which it could justify, under equal protection principles, its determination "to afford VMI's unique type of program to men and not to

women." 976 F.2d, at 892. Virginia challenges that "liability" ruling and asserts two justifications in defense of VMI's exclusion of ***535** women. First, the Commonwealth contends, "single-sex education provides important educational benefits," Brief for Cross–Petitioners 20, and the option of single-sex education contributes to "diversity in educational approaches," *id.,* at 25. Second, the Commonwealth argues, "the unique VMI method of character development and leadership training," the school's adversative approach, would have to be modified were VMI to admit women. *Id.,* at 33–36 (internal quotation marks omitted). We consider these two justifications in turn.

A

[8] [9] Single-sex education affords pedagogical benefits to at least some students, ****2277** Virginia emphasizes, and that reality is uncontested in this litigation.[8] Similarly, it is not disputed that diversity among public educational institutions can serve the public good. But Virginia has not shown that VMI was established, or has been maintained, with a view to diversifying, by its categorical exclusion of women, educational opportunities within the Commonwealth. In cases of this genre, our precedent instructs that "benign" justifications proffered in defense of categorical exclusions will not be accepted automatically; a tenable justification must describe actual state purposes, not rationalizations for actions ***536** in fact differently grounded. See *Wiesenfeld,* 420 U.S., at 648, and n. 16, 95 S.Ct., at 1233, and n. 16 ("mere recitation of a benign [or] compensatory purpose" does not block "inquiry into the actual purposes" of government-maintained gender-based classifications); *Goldfarb,* 430 U.S., at 212–213, 97 S.Ct., at 1030 (rejecting government-proffered purposes after "inquiry into the actual purposes" (internal quotation marks omitted)).

Mississippi Univ. for Women is immediately in point. There the State asserted, in justification of its exclusion of men from a nursing school, that it was engaging in "educational affirmative action" by "compensat[ing] for discrimination against women." 458 U.S., at 727, 102 S.Ct., at 3337. Undertaking a "searching analysis," *id.,* at 728, 102 S.Ct., at 3338, the Court found no close resemblance between "the alleged objective" and "the actual purpose underlying the discriminatory classification," *id.,* at 730, 102 S.Ct., at 3339. Pursuing a similar inquiry here, we reach the same conclusion.

Neither recent nor distant history bears out Virginia's alleged pursuit of diversity through single-sex educational options. In 1839, when the Commonwealth established VMI, a range of educational opportunities for men and women was scarcely contemplated. Higher education at the time was considered dangerous for women;[9] reflecting ***537** widely held views about women's proper place, the Nation's first universities and colleges—for example, Harvard in Massachusetts, William and Mary in Virginia—admitted only men. See E. Farello, A History of the Education of Women in the United States 163 (1970). VMI was not at all novel in this respect: In admitting no women, VMI followed the lead of the Commonwealth's flagship school, the University of Virginia, founded in 1819.

"[N]o struggle for the admission of women to a state university," a historian has recounted, "was longer drawn out, or developed more bitterness, than that at the University of Virginia." 2 T. Woody, A History of Women's Education in the United States 254 (1929) (History of Women's Education). In ****2278** 1879, the State Senate resolved to look into the possibility of higher education for women, recognizing that Virginia " 'has never, at any period of her history,' " provided for the higher education of her daughters, though she " 'has liberally provided for the higher education of her sons.' " *Ibid.* (quoting 10 Educ. J. Va. 212 (1879)). Despite this recognition, no new opportunities were instantly open to women.[10]

Virginia eventually provided for several women's seminaries and colleges. Farmville Female Seminary became a public institution in 1884. See *supra,* at 2270, n. 2. Two women's schools, Mary Washington College and James Madison University, were founded in 1908; another, Radford University, was founded in 1910. 766 F.Supp., at 1418–1419. By the mid–1970's, all four schools had become coeducational. *Ibid.*

Debate concerning women's admission as undergraduates at the main university continued well past the century's midpoint. Familiar arguments were rehearsed. If women ***538** were admitted, it was feared, they "would encroach on the rights of men; there would be new problems of government, perhaps scandals; the old honor system would have to be changed; standards would be lowered to those of other coeducational schools; and the glorious reputation of the university, as a school for men, would be trailed in the dust." 2 History of Women's Education 255.

Ultimately, in 1970, "the most prestigious institution of higher education in Virginia," the University of Virginia, introduced coeducation and, in 1972, began to admit women on an equal basis with men. See *Kirstein v. Rector and Visitors of Univ. of Virginia,* 309 F.Supp. 184, 186 (E.D.Va.1970). A three-judge Federal District Court confirmed: "Virginia may not now deny to women, on the basis of sex, educational opportunities at the Charlottesville campus that are not afforded in other institutions operated by the [S]tate." *Id.,* at 187.

Virginia describes the current absence of public single-sex higher education for women as "an historical anomaly." Brief for Cross–Petitioners 30. But the historical record indicates action more deliberate than anomalous: First, protection of women against higher education; next, schools for women far from equal in resources and stature to schools for men; finally, conversion of the separate schools to coeducation. The state legislature, prior to the advent of this controversy, had repealed "[a]ll Virginia statutes requiring individual institutions to admit only men or women." 766 F.Supp., at 1419. And in 1990, an official commission, "legislatively established to chart the future goals of higher education in Virginia," reaffirmed the policy " 'of affording broad access' " while maintaining " 'autonomy and diversity.' " 976 F.2d, at 898–899 (quoting Report of the Virginia Commission on the University of the 21st Century). Significantly, the commission reported:

> " 'Because colleges and universities provide opportunities for students to develop values and learn from role ***539** models, it is extremely important that they deal with faculty, staff, and students without regard to sex, race, or ethnic origin.' " *Id.,* at 899 (emphasis supplied by Court of Appeals deleted).

This statement, the Court of Appeals observed, "is the only explicit one that we have found in the record in which the Commonwealth has expressed itself with respect to gender distinctions." *Ibid.*

Our 1982 decision in *Mississippi Univ. for Women* prompted VMI to reexamine its male-only admission policy. See 766 F.Supp., at 1427–1428. Virginia relies on that reexamination as a legitimate basis for maintaining VMI's single-sex character. See Reply Brief for Cross–Petitioners 6. A Mission Study Committee, appointed by the VMI Board of Visitors, studied the problem from October 1983 until May 1986, and in that month counseled against "change of VMI status as a single-sex college." See 766 F.Supp., at 1429 (internal quotation marks ****2279** omitted). Whatever internal purpose the Mission Study Committee served—and however well meaning the framers of the report—we can hardly extract from that effort any Commonwealth policy evenhandedly to advance diverse educational options. As the District

Court observed, the Committee's analysis "primarily focuse[d] on anticipated difficulties in attracting females to VMI," and the report, overall, supplied "very little indication of how th[e] conclusion was reached." *Ibid.*

In sum, we find no persuasive evidence in this record that VMI's male-only admission policy "is in furtherance of a state policy of 'diversity.' " See 976 F.2d, at 899. No such policy, the Fourth Circuit observed, can be discerned from the movement of all other public colleges and universities in Virginia away from single-sex education. See *ibid.* That court also questioned "how one institution with autonomy, but with no authority over any other state institution, can give effect to a state policy of diversity among institutions." *Ibid.* A purpose genuinely to advance an array of educational ***540** options, as the Court of Appeals recognized, is not served by VMI's historic and constant plan—a plan to "affor[d] a unique educational benefit only to males." *Ibid.* However "liberally" this plan serves the Commonwealth's sons, it makes no provision whatever for her daughters. That is not *equal* protection.

B

[10] Virginia next argues that VMI's adversative method of training provides educational benefits that cannot be made available, unmodified, to women. Alterations to accommodate women would necessarily be "radical," so "drastic," Virginia asserts, as to transform, indeed "destroy," VMI's program. See Brief for Cross–Petitioners 34–36. Neither sex would be favored by the transformation, Virginia maintains: Men would be deprived of the unique opportunity currently available to them; women would not gain that opportunity because their participation would "eliminat[e] the very aspects of [the] program that distinguish [VMI] from ... other institutions of higher education in Virginia." *Id.,* at 34.

The District Court forecast from expert witness testimony, and the Court of Appeals accepted, that coeducation would materially affect "at least these three aspects of VMI's program—physical training, the absence of privacy, and the adversative approach." 976 F.2d, at 896–897. And it is uncontested that women's admission would require accommodations, primarily in arranging housing assignments and physical training programs for female cadets. See Brief for Cross–Respondent 11, 29–30. It is also undisputed, however, that "the VMI methodology could be used to educate women." 852 F.Supp., at 481. The District Court even allowed that some women may prefer it to the methodology a women's college might pursue. See *ibid.* "[S]ome women, at least, would want to attend [VMI] if they had the opportunity," the District Court recognized, 766 F.Supp., at 1414, and "some women," the expert testimony established, "are ***541** capable of all of the individual activities required of VMI cadets," *id.,* at 1412. The parties, furthermore, agree that "*some* women can meet the physical standards [VMI] now impose[s] on men." 976 F.2d, at 896. In sum, as the Court of Appeals stated, "neither the goal of producing citizen soldiers," VMI's *raison d'être,* "nor VMI's implementing methodology is inherently unsuitable to women." *Id.,* at 899.

In support of its initial judgment for Virginia, a judgment rejecting all equal protection objections presented by the United States, the District Court made "findings" on "gender-based developmental differences." 766 F.Supp., at 1434–1435. These "findings" restate the opinions of Virginia's expert witnesses, opinions about typically male or typically female "tendencies." *Id.,* at 1434. For example, "[m]ales tend to need an atmosphere of adversativeness," while "[f]emales tend to thrive in a cooperative atmosphere." *Ibid.* "I'm not saying that some women don't do well under [the] adversative model," VMI's expert on educational institutions testified, "undoubtedly there are some [women] who do"; but

educational experiences must be designed "around the rule," this expert maintained, and not "around the exception." *Ibid.* (internal quotation marks omitted).

2280 [11] The United States does not challenge any expert witness estimation on average capacities or preferences of men and women. Instead, the United States emphasizes that time and again since this Court's turning point decision in *Reed v. Reed,* 404 U.S. 71, 92 S.Ct. 251, 30 L.Ed.2d 225 (1971), we have cautioned reviewing courts to take a "hard look" at generalizations or "tendencies" of the kind pressed by Virginia, and relied upon by the District Court. See O'Connor, Portia's Progress, 66 N.Y.U.L.Rev. 1546, 1551 (1991). State actors controlling gates to opportunity, we have instructed, may not exclude qualified individuals based on "fixed notions concerning the roles and abilities of males and females." *Mississippi Univ. for Women,* 458 U.S., at 725, 102 S.Ct., at 3336; see *J.E.B.,* 511 U.S., at 139, n. 11, 114 S.Ct., at 1427, n. 11 (equal protection principles, as applied to gender classifications, mean ***542 state actors may not rely on "overbroad" generalizations to make "judgments about people that are likely to ... perpetuate historical patterns of discrimination").

It may be assumed, for purposes of this decision, that most women would not choose VMI's adversative method. As Fourth Circuit Judge Motz observed, however, in her dissent from the Court of Appeals' denial of rehearing en banc, it is also probable that "many men would not want to be educated in such an environment." 52 F.3d, at 93. (On that point, even our dissenting colleague might agree.) Education, to be sure, is not a "one size fits all" business. The issue, however, is not whether "women—or men—should be forced to attend VMI"; rather, the question is whether the Commonwealth can constitutionally deny to women who have the will and capacity, the training and attendant opportunities that VMI uniquely affords. *Ibid.*

The notion that admission of women would downgrade VMI's stature, destroy the adversative system and, with it, even the school,[11] is a judgment hardly proved,[12] a prediction ***543** hardly different from other "self-fulfilling prophec[ies]," see *Mississippi Univ. for Women,* 458 U.S., at 730, 102 S.Ct., at 3339, once routinely used to deny rights or opportunities. When women first sought admission to the bar and access to legal education, concerns of the same order were expressed. For example, in 1876, the Court of Common Pleas of Hennepin County, Minnesota, explained why women were thought ineligible for the practice of law. Women train and educate the young, the court said, which

> "forbids that they shall bestow that time (early and late) and labor, so essential in attaining to the eminence to which the true lawyer should ever aspire. It cannot therefore be said that the opposition of courts to the admission of females to practice ... is to any extent the outgrowth of ... 'old fogyism[.]' ... [I]t arises rather from a comprehension of the magnitude of the responsibilities connected with the successful ****2281** practice of law, and a desire to *grade up* the profession." In re Application of Martha Angle Dorsett to Be Admitted to Practice as Attorney and Counselor at Law (Minn. C.P. Hennepin Cty., 1876), in The Syllabi, Oct. 21, 1876, pp. 5, 6 (emphasis added).

A like fear, according to a 1925 report, accounted for Columbia Law School's resistance to women's admission, although

> "[t]he faculty ... never maintained that women could not master legal learning.... No, its argument has been ... more practical. If women were admitted to ***544** the Columbia Law School, [the faculty] said,

then the choicer, more manly and red-blooded graduates of our great universities would go to the Harvard Law School!" The Nation, Feb. 18, 1925, p. 173.

Medical faculties similarly resisted men and women as partners in the study of medicine. See R. Morantz–Sanchez, Sympathy and Science: Women Physicians in American Medicine 51–54, 250 (1985); see also M. Walsh, "Doctors Wanted: No Women Need Apply" 121–122 (1977) (quoting E. Clarke, Medical Education of Women, 4 Boston Med. & Surg. J. 345, 346 (1869) (" 'God forbid that I should ever see men and women aiding each other to display with the scalpel the secrets of the reproductive system ....' ")); cf. *supra,* at 2277, n. 9. More recently, women seeking careers in policing encountered resistance based on fears that their presence would "undermine male solidarity," see F. Heidensohn, Women in Control? 201 (1992); deprive male partners of adequate assistance, see *id.,* at 184–185; and lead to sexual misconduct, see C. Milton et al., Women in Policing 32–33 (1974). Field studies did not confirm these fears. See Heidensohn, *supra,* at 92–93; P. Bloch & D. Anderson, Policewomen on Patrol: Final Report (1974).

Women's successful entry into the federal military academies,[13] and their participation in the Nation's military forces,[14] indicate that Virginia's fears for the future of VMI ***545** may not be solidly grounded.[15] The Commonwealth's justification for excluding all women from "citizen-soldier" training for which some are qualified, in any event, cannot rank as "exceedingly persuasive," as we have explained and applied that standard.

Virginia and VMI trained their argument on "means" rather than "end," and thus misperceived our precedent. Single-sex education at VMI serves an "important governmental objective," they maintained, and exclusion of women is not only "substantially related," it is essential to that objective. By this notably circular argument, the "straightforward" test *Mississippi Univ. for Women* described, see 458 U.S., at 724–725, 102 S.Ct., at 3336–3337, was bent and bowed.

The Commonwealth's misunderstanding and, in turn, the District Court's, is apparent from VMI's mission: to produce "citizen-soldiers," individuals

" 'imbued with love of learning, confident in the functions and attitudes of leadership, possessing a high sense of public service, advocates of the American democracy and free enterprise system, and ready ****2282** ... to defend their country in time of national peril.' " 766 F.Supp., at 1425 (quoting Mission Study Committee of the VMI Board of Visitors, Report, May 16, 1986).

Surely that goal is great enough to accommodate women, who today count as citizens in our American democracy equal in stature to men. Just as surely, the Commonwealth's ***546** great goal is not substantially advanced by women's categorical exclusion, in total disregard of their individual merit, from the Commonwealth's premier "citizen-soldier" corps.[16] Virginia, in sum, "has fallen far short of establishing the 'exceedingly persuasive justification,' " *Mississippi Univ. for Women,* 458 U.S., at 731, 102 S.Ct., at 3340, that must be the solid base for any gender-defined classification.

VI

In the second phase of the litigation, Virginia presented its remedial plan—maintain VMI as a male-only college and create VWIL as a separate program for women. The plan met District Court approval. The Fourth Circuit, in turn, deferentially reviewed the Commonwealth's proposal and decided that the two

single-sex programs directly served Virginia's reasserted purposes: single-gender education, and "achieving the results of an adversative method in a military environment." See 44 F.3d, at 1236, 1239. Inspecting the VMI and VWIL educational programs to determine whether they "afford[ed] to both genders benefits comparable in substance, [if] not in form and detail," *id.,* at 1240, the Court of Appeals concluded that Virginia had arranged for men and women opportunities "sufficiently comparable" to survive equal protection evaluation, *id.,* at 1240–1241. The United States challenges this "remedial" ruling as pervasively misguided.

***547** A

[12] [13] A remedial decree, this Court has said, must closely fit the constitutional violation; it must be shaped to place persons unconstitutionally denied an opportunity or advantage in "the position they would have occupied in the absence of [discrimination]." See *Milliken v. Bradley,* 433 U.S. 267, 280, 97 S.Ct. 2749, 2757, 53 L.Ed.2d 745 (1977) (internal quotation marks omitted). The constitutional violation in this suit is the categorical exclusion of women from an extraordinary educational opportunity afforded men. A proper remedy for an unconstitutional exclusion, we have explained, aims to "eliminate [so far as possible] the discriminatory effects of the past" and to "bar like discrimination in the future." *Louisiana v. United States,* 380 U.S. 145, 154, 85 S.Ct. 817, 822, 13 L.Ed.2d 709 (1965).

[14] Virginia chose not to eliminate, but to leave untouched, VMI's exclusionary policy. For women only, however, Virginia proposed a separate program, different in kind from VMI and unequal in tangible and intangible facilities.[17] Having violated the Constitution's equal protection requirement, Virginia was obliged to show that its remedial proposal "directly address[ed] and relate[d] ****2283** to" the violation, see *Milliken,* 433 U.S., at 282, 97 S.Ct., at 2758, *i.e.,* the equal protection denied to women ready, willing, and able to benefit from educational ***548** opportunities of the kind VMI offers. Virginia described VWIL as a "parallel program," and asserted that VWIL shares VMI's mission of producing "citizen-soldiers" and VMI's goals of providing "education, military training, mental and physical discipline, character ... and leadership development." Brief for Respondents 24 (internal quotation marks omitted). If the VWIL program could not "eliminate the discriminatory effects of the past," could it at least "bar like discrimination in the future"? See *Louisiana,* 380 U.S., at 154, 85 S.Ct., at 822. A comparison of the programs said to be "parallel" informs our answer. In exposing the character of, and differences in, the VMI and VWIL programs, we recapitulate facts earlier presented. See *supra,* at 2269–2271, 2272–2273.

VWIL affords women no opportunity to experience the rigorous military training for which VMI is famed. See 766 F.Supp., at 1413–1414 ("No other school in Virginia or in the United States, public or private, offers the same kind of rigorous military training as is available at VMI."); *id.,* at 1421 (VMI "is known to be the most challenging military school in the United States"). Instead, the VWIL program "deemphasize[s]" military education, 44 F.3d, at 1234, and uses a "cooperative method" of education "which reinforces self-esteem," 852 F.Supp., at 476.

VWIL students participate in ROTC and a "largely ceremonial" Virginia Corps of Cadets, see 44 F.3d, at 1234, but Virginia deliberately did not make VWIL a military institute. The VWIL House is not a military-style residence and VWIL students need not live together throughout the 4–year program, eat meals together, or wear uniforms during the schoolday. See 852 F.Supp., at 477, 495. VWIL students thus do not experience the "barracks" life "crucial to the VMI experience," the spartan living arrangements designed to foster an "egalitarian ethic." See 766 F.Supp., at 1423–1424. "[T]he most important aspects of the VMI

educational experience occur in the barracks," the District Court ***549** found, *id.,* at 1423, yet Virginia deemed that core experience nonessential, indeed inappropriate, for training its female citizen-soldiers.

VWIL students receive their "leadership training" in seminars, externships, and speaker series, see 852 F.Supp., at 477, episodes and encounters lacking the "[p]hysical rigor, mental stress, ... minute regulation of behavior, and indoctrination in desirable values" made hallmarks of VMI's citizen-soldier training, see 766 F.Supp., at 1421.[18] Kept away from the pressures, hazards, and psychological bonding characteristic of VMI's adversative training, see *id.,* at 1422, VWIL students will not know the "feeling of tremendous accomplishment" commonly experienced by VMI's successful cadets, *id.,* at 1426.

Virginia maintains that these methodological differences are "justified pedagogically," based on "important differences between men and women in learning and developmental needs," "psychological and sociological differences" Virginia describes as "real" and "not stereotypes." Brief for Respondents 28 (internal quotation marks omitted). The Task Force charged with developing the leadership program for women, drawn from the staff and faculty at Mary Baldwin College, "determined that a military model and, especially VMI's adversative method, would be wholly inappropriate for educating and training *most women.*" 852 F.Supp., at 476 (emphasis added). See also 44 F.3d, at 1233–1234 (noting Task Force conclusion that, while "some women would be suited to and interested in [a VMI-style experience]," VMI's adversative method "would not be effective for *women as a group* " (emphasis added)). The Commonwealth embraced ***550** the Task Force view, as did expert witnesses who testified for Virginia. See 852 F.Supp., at 480–481.

****2284** As earlier stated, see *supra,* at 2280, generalizations about "the way women are," estimates of what is appropriate for *most women,* no longer justify denying opportunity to women whose talent and capacity place them outside the average description. Notably, Virginia never asserted that VMI's method of education suits *most men.* It is also revealing that Virginia accounted for its failure to make the VWIL experience "the entirely militaristic experience of VMI" on the ground that VWIL "is planned for women who do not necessarily expect to pursue military careers." 852 F.Supp., at 478. By that reasoning, VMI's "entirely militaristic" program would be inappropriate for men in general or *as a group,* for "[o]nly about 15% of VMI cadets enter career military service." See 766 F.Supp., at 1432.

In contrast to the generalizations about women on which Virginia rests, we note again these dispositive realities: VMI's "implementing methodology" is not "inherently unsuitable to women," 976 F.2d, at 899; "some women ... do well under [the] adversative model," 766 F.Supp., at 1434 (internal quotation marks omitted); "some women, at least, would want to attend [VMI] if they had the opportunity," *id.,* at 1414; "some women are capable of all of the individual activities required of VMI cadets," *id.,* at 1412, and "can meet the physical standards [VMI] now impose[s] on men," 976 F.2d, at 896. It is on behalf of these women that the United States has instituted this suit, and it is for them that a remedy must be crafted,[19] a remedy that will end their ***551** exclusion from a state-supplied educational opportunity for which they are fit, a decree that will "bar like discrimination in the future." *Louisiana,* 380 U.S., at 154, 85 S.Ct., at 822.

B

In myriad respects other than military training, VWIL does not qualify as VMI's equal. VWIL's student body, faculty, course offerings, and facilities hardly match VMI's. Nor can the VWIL graduate anticipate

the benefits associated with VMI's 157–year history, the school's prestige, and its influential alumni network.

Mary Baldwin College, whose degree VWIL students will gain, enrolls first-year women with an average combined SAT score about 100 points lower than the average score for VMI freshmen. 852 F.Supp., at 501. The Mary Baldwin faculty holds "significantly fewer Ph.D.'s," *id.,* at 502, and receives substantially lower salaries, see Tr. 158 (testimony of James Lott, Dean of Mary Baldwin College), than the faculty at VMI.

Mary Baldwin does not offer a VWIL student the range of curricular choices available to a VMI cadet. VMI awards baccalaureate degrees in liberal arts, biology, chemistry, civil engineering, electrical and computer engineering, and mechanical engineering. See 852 F.Supp., at 503; Virginia Military Institute: More than an Education 11 (Govt. exh. 75, ***552** lodged with Clerk of this Court). VWIL students attend a school that "does not have a math and science focus," 852 F.Supp., at 503; they cannot take at Mary Baldwin any courses in engineering or the advanced math and physics courses VMI offers, see *id.,* at 477.

For physical training, Mary Baldwin has "two multi-purpose fields" and "[o]ne gymnasium." *Id.,* at 503. VMI has "an NCAA competition level indoor track and field facility; a number of multi-purpose fields; baseball, soccer and lacrosse fields; an obstacle course; large boxing, wrestling and martial arts facilities; an 11–laps–to–the–mile indoor ****2285** running course; an indoor pool; indoor and outdoor rifle ranges; and a football stadium that also contains a practice field and outdoor track." *Ibid.*

Although Virginia has represented that it will provide equal financial support for in-state VWIL students and VMI cadets, *id.,* at 483, and the VMI Foundation has agreed to endow VWIL with $5.4625 million, *id.,* at 499, the difference between the two schools' financial reserves is pronounced. Mary Baldwin's endowment, currently about $19 million, will gain an additional $35 million based on future commitments; VMI's current endowment, $131 million—the largest public college per-student endowment in the Nation—will gain $220 million. *Id.,* at 503.

The VWIL student does not graduate with the advantage of a VMI degree. Her diploma does not unite her with the legions of VMI "graduates [who] have distinguished themselves" in military and civilian life. See 976 F.2d, at 892–893. "[VMI] alumni are exceptionally close to the school," and that closeness accounts, in part, for VMI's success in attracting applicants. See 766 F.Supp., at 1421. A VWIL graduate cannot assume that the "network of business owners, corporations, VMI graduates and non-graduate employers ... interested in hiring VMI graduates," 852 F.Supp., at 499, will be equally responsive to her search for employment, ***553** see 44 F.3d, at 1250 (Phillips, J., dissenting) ("the powerful political and economic ties of the VMI alumni network cannot be expected to open" for graduates of the fledgling VWIL program).

Virginia, in sum, while maintaining VMI for men only, has failed to provide any "comparable single-gender women's institution." *Id.,* at 1241. Instead, the Commonwealth has created a VWIL program fairly appraised as a "pale shadow" of VMI in terms of the range of curricular choices and faculty stature, funding, prestige, alumni support and influence. See *id.,* at 1250 (Phillips, J., dissenting).

Virginia's VWIL solution is reminiscent of the remedy Texas proposed 50 years ago, in response to a state trial court's 1946 ruling that, given the equal protection guarantee, African–Americans could not be denied a legal education at a state facility. See *Sweatt v. Painter,* 339 U.S. 629, 70 S.Ct. 848, 94 L.Ed. 1114 (1950).

Reluctant to admit African–Americans to its flagship University of Texas Law School, the State set up a separate school for Heman Sweatt and other black law students. *Id.,* at 632, 70 S.Ct., at 849. As originally opened, the new school had no independent faculty or library, and it lacked accreditation. *Id.,* at 633, 70 S.Ct., at 849–850. Nevertheless, the state trial and appellate courts were satisfied that the new school offered Sweatt opportunities for the study of law "substantially equivalent to those offered by the State to white students at the University of Texas." *Id.,* at 632, 70 S.Ct., at 849 (internal quotation marks omitted). Before this Court considered the case, the new school had gained "a faculty of five full-time professors; a student body of 23; a library of some 16,500 volumes serviced by a full-time staff; a practice court and legal aid association; and one alumnus who ha[d] become a member of the Texas Bar." *Id.,* at 633, 70 S.Ct., at 850. This Court contrasted resources at the new school with those at the school from which Sweatt had been excluded. The University of Texas Law School had a full-time faculty of 16, a student body of 850, a library containing over ***554** 65,000 volumes, scholarship funds, a law review, and moot court facilities. *Id.,* at 632–633, 70 S.Ct., at 849–850.

More important than the tangible features, the Court emphasized, are "those qualities which are incapable of objective measurement but which make for greatness" in a school, including "reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige." *Id.,* at 634, 70 S.Ct., at 850. Facing the marked differences reported in the *Sweatt* opinion, the Court unanimously ruled that Texas had not shown "substantial equality in the [separate] educational opportunities" the State offered. *Id.,* at 633, 70 S.Ct., at 850. Accordingly, the Court held, the Equal Protection Clause required Texas to admit African–Americans to the University of Texas Law School. ****2286** *Id.,* at 636, 70 S.Ct., at 851. In line with *Sweatt,* we rule here that Virginia has not shown substantial equality in the separate educational opportunities the Commonwealth supports at VWIL and VMI.

C

[15] When Virginia tendered its VWIL plan, the Fourth Circuit did not inquire whether the proposed remedy, approved by the District Court, placed women denied the VMI advantage in "the position they would have occupied in the absence of [discrimination]." *Milliken,* 433 U.S., at 280, 97 S.Ct., at 2757 (internal quotation marks omitted). Instead, the Court of Appeals considered whether the Commonwealth could provide, with fidelity to the equal protection principle, separate and unequal educational programs for men and women.

The Fourth Circuit acknowledged that "the VWIL degree from Mary Baldwin College lacks the historical benefit and prestige of a degree from VMI." 44 F.3d, at 1241. The Court of Appeals further observed that VMI is "an ongoing and successful institution with a long history," and there remains no "comparable single-gender women's institution." *Ibid.* Nevertheless, the appeals court declared the substantially different and significantly unequal VWIL program satisfactory. ***555** The court reached that result by revising the applicable standard of review. The Fourth Circuit displaced the standard developed in our precedent, see *supra,* at 2275–2276, and substituted a standard of its own invention.

We have earlier described the deferential review in which the Court of Appeals engaged, see *supra,* at 2273–2274, a brand of review inconsistent with the more exacting standard our precedent requires, see *supra,* at 2275–2276. Quoting in part from *Mississippi Univ. for Women,* the Court of Appeals candidly described its own analysis as one capable of checking a legislative purpose ranked as "pernicious," but generally according "deference to [the] legislative will." 44 F.3d, at 1235, 1236. Recognizing that it had

extracted from our decisions a test yielding "little or no scrutiny of the effect of a classification directed at [single-gender education]," the Court of Appeals devised another test, a "substantive comparability" inquiry, *id.,* at 1237, and proceeded to find that new test satisfied, *id.,* at 1241.

The Fourth Circuit plainly erred in exposing Virginia's VWIL plan to a deferential analysis, for "all gender-based classifications today" warrant "heightened scrutiny." See *J.E.B.,* 511 U.S., at 136, 114 S.Ct., at 1425. Valuable as VWIL may prove for students who seek the program offered, Virginia's remedy affords no cure at all for the opportunities and advantages withheld from women who want a VMI education and can make the grade. See *supra,* at 2282–2286.[20] In ****2287** sum, Virginia's ***556** remedy does not match the constitutional violation; the Commonwealth has shown no "exceedingly persuasive justification" for withholding from women qualified for the experience premier training of the kind VMI affords.

VII

A generation ago, "the authorities controlling Virginia higher education," despite long established tradition, agreed "to innovate and favorably entertain [ed] the [then] relatively new idea that there must be no discrimination by sex in offering educational opportunity." *Kirstein,* 309 F.Supp., at 186. Commencing in 1970, Virginia opened to women "educational opportunities at the Charlottesville campus that [were] not afforded in other [state-operated] institutions." *Id.,* at 187; see *supra,* at 2278. A federal court approved the Commonwealth's innovation, emphasizing that the University of Virginia "offer[ed] courses of instruction ... not available elsewhere." 309 F.Supp., at 187. The court further noted: "[T]here exists at Charlottesville a 'prestige' factor ***557** [not paralleled in] other Virginia educational institutions." *Ibid.*

VMI, too, offers an educational opportunity no other Virginia institution provides, and the school's "prestige"—associated with its success in developing "citizen-soldiers"—is unequaled. Virginia has closed this facility to its daughters and, instead, has devised for them a "parallel program," with a faculty less impressively credentialed and less well paid, more limited course offerings, fewer opportunities for military training and for scientific specialization. Cf. *Sweatt,* 339 U.S., at 633, 70 S.Ct., at 849–850. VMI, beyond question, "possesses to a far greater degree" than the VWIL program "those qualities which are incapable of objective measurement but which make for greatness in a ... school," including "position and influence of the alumni, standing in the community, traditions and prestige." *Id.,* at 634, 70 S.Ct., at 850. Women seeking and fit for a VMI-quality education cannot be offered anything less, under the Commonwealth's obligation to afford them genuinely equal protection.

A prime part of the history of our Constitution, historian Richard Morris recounted, is the story of the extension of constitutional rights and protections to people once ignored or excluded.[21] VMI's story continued as our comprehension of "We the People" expanded. See *supra,* at 2282, n. 16. ***558** There is no reason to believe that the admission of women capable of all the activities required of VMI cadets would destroy the Institute rather than enhance its capacity to serve the "more perfect Union."

For the reasons stated, the initial judgment of the Court of Appeals, 976 F.2d 890 (C.A.4 1992), is affirmed, the final judgment of the Court of Appeals, 44 F.3d 1229 (C.A.4 1995), is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Justice THOMAS took no part in the consideration or decision of these cases.
Chief Justice REHNQUIST, concurring in the judgment. [OMITTED]
Justice SCALIA, dissenting. [OMITTED]