lish that the alleged objective is the actual purpose underlying the discriminatory classification." [1848] Even if the classification was premised on the proffered basis, the Court concluded, it did not substantially and directly relate to the objective, because the school permitted men to audit the nursing classes and women could still be adversely affected by the presence of men.[1849]

In a 1996 case, the Court required that a state demonstrate "exceedingly persuasive justification" for gender discrimination. When a female applicant challenged the exclusion of women from the historically male-only Virginia Military Institute (VMI), the State of Virginia defended the exclusion of females as essential to the nature of training at the military school.[1850] The state argued that the VMI program, which included rigorous physical training, deprivation of personal privacy, and an "adversative model" that featured minute regulation of behavior, would need to be unacceptably modified to facilitate the admission of women. While recognizing that women's admission would require accommodation such as different housing assignments and physical training programs, the Court found that the reasons set forth by the state were not "exceedingly persuasive," and thus the state did not meet its burden of justification. The Court also rejected the argument that a parallel program established by the state at a private women's college served as an adequate substitute, finding that the program lacked the military-style structure found at VMI, and that it did not equal VMI in faculty, facilities, prestige or alumni network.

Another area presenting some difficulty is that of the relationship of pregnancy classifications to gender discrimination. In *Cleve-*

[1848] 458 U.S. at 730. In addition to obligating the state to show that in fact there was existing discrimination or effects from past discrimination, the Court also appeared to take the substantial step of requiring the state "to establish that the legislature intended the single-sex policy to compensate for any perceived discrimination." Id. at 730 n.16. A requirement that the proffered purpose be the actual one and that it must be shown that the legislature actually had that purpose in mind would be a notable stiffening of equal protection standards.

[1849] In the major dissent, Justice Powell argued that only a rational basis standard ought to be applied to sex classifications that would " *expand* women's choices," but that the exclusion here satisfied intermediate review because it promoted diversity of educational opportunity and was premised on the belief that single-sex colleges offer "distinctive benefits" to society. Id. at 735, 740 (emphasis by Justice), 743. The Court noted that, because the state maintained no other single-sex public university or college, the case did not present "the question of whether States can provide 'separate but equal' undergraduate institutions for males and females," id. at 720 n.1, although Justice Powell thought the decision did preclude such institutions. Id. at 742–44. *See* Vorchheimer v. School Dist. of Philadelphia, 532 F. 2d 880 (3d Cir. 1976) (finding no equal protection violation in maintenance of two single-sex high schools of equal educational offerings, one for males, one for females), aff'd by an equally divided Court, 430 U.S. 703 (1977) (Justice Rehnquist not participating).

[1850] United States v. Virginia, 518 U.S. 515 (1996).