

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL
STUDYING THE PRACTICE OF “LAW READING” IN VIRGINIA
TO
THE GOVERNOR
AND
GENERAL ASSEMBLY**



SENATE DOCUMENT NO. 27

**COMMONWEALTH OF VIRGINIA
Richmond
1980**

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**Report of the
Virginia Advisory Legislative Council
Studying the Practice of "Law Reading" in Virginia
To**

**The Governor and General Assembly
Richmond, Virginia
January, 1980**

To: Honorable John N. Dalton, Governor of Virginia
and
The General Assembly of Virginia

I. INTRODUCTION

The 1979 Session of the Virginia General Assembly passed Senate Joint Resolution No. 126, which requests the Virginia Advisory Legislative Council to study the effects on the citizens of this Commonwealth of permitting a person to take the examination for admission to the Bar after studying law for three years in the office of a licensed attorney, under § 54-62(2) of the Code of Virginia. The Resolution also charges the Council to recommend to the Assembly whether § 54-62(2) should be retained, amended or repealed. The full text of Senate Joint Resolution No. 126 follows:

SENATE JOINT RESOLUTION NO. 126

Requesting the Virginia Advisory Legislative Council to study the effects of permitting a person to take the examination for admission to the Bar after studying law for three years in the office of a licensed attorney.

WHEREAS, § 54-62(2) of the Code of Virginia provides that any person who has studied law for three years in the office of a licensed attorney is authorized to take the examination for admission to the Bar and to practice law in this Commonwealth upon satisfactory completion of such examination; and

WHEREAS, in recent years there has been a dramatic increase in the number of persons studying law in the office of licensed attorneys; and

WHEREAS, substantially all other states no longer recognize the study of law in the office of an attorney as an acceptable method of gaining admission to the Bar; and

WHEREAS, the Virginia Bar Association has expressed concern about the effects on the citizens of this Commonwealth of the increase in the number of persons studying law in the offices of licensed attorneys and has requested that the General Assembly study the situation; now, therefore, be it

RESOLVED, by the Senate of Virginia, the House of Delegates concurring, That the Virginia Advisory Legislative Council is hereby requested to study the effects on the citizens of this Commonwealth of permitting a person to take the examination for admission to the Bar after studying law in the office of a licensed attorney. The Virginia Advisory Legislative Council shall recommend to the General Assembly whether § 54-62(2) of the Code of Virginia should be retained, amended or repealed. All officials and employees of all State agencies shall cooperate fully with the Virginia Advisory Legislative Council.

The Council shall make a report of its findings and recommendations to the Governor and General Assembly no later than December one, nineteen hundred seventy-nine.

The Council appointed the following persons to the committee to conduct the study: Delegate George E. Allen, Jr., of Richmond, Chairman; Delegate C. Hardaway Marks, of Hopewell; Delegate A. L. Philpott, of Bassett; Senator Joseph V. Gartlan, Jr., of Fairfax; Senator Elliot S. Schewel, of Lynchburg; Senator Lawrence Douglas Wilder, of Richmond; Dean Emerson G. Spies, of the

University of Virginia School of Law in Charlottesville; Dean Thomas A. Edmonds, of the T. C. Williams School of Law in Richmond; Dean William B. Spong, of the Marshall-Wythe School of Law in Williamsburg; Dean Roy L. Steinheimer, Jr., of the Washington and Lee University School of Law in Lexington; Dr. George M. Modlin, Chancellor of the University of Richmond; Dr. Calvin M. Miller, Dean of the School of Humanities and Social Sciences at Virginia State University; Dr. Richard S. Vacca, of Richmond; Mrs. Deborah W. Witcher of Richmond; Mr. Edward G. Kidd, Clerk of the Circuit Court of the City of Richmond, Division I; Mr. Vernon C. Womack, Clerk of the Circuit Court of Prince Edward County in Farmville. The Committee above, pursuant to Section 13 of the Standing Policies and Procedures of the Virginia Advisory Legislative Council, adopted January 4, 1978, filed its report with the Council in December, 1979. This Report was adopted by the Council in January, 1980.

II. PRESENT STATUTES AND REGULATIONS CONCERNING "LAW READING" IN VIRGINIA

A. Statutes.

As stated earlier, the Code of Virginia, in § 54-62, gives the statutory requirements for taking the Virginia bar examination. Section 54-62(2), the only paragraph which is pertinent to the study under Senate Joint Resolution No. 126, permits a person to take the examination if that person has "completed at least a three-year academic course of an accredited college and studied law for at least three years, in the office of an attorney practicing in this State, whose full time is devoted to the practice of law, or studied law for at least three years partly in a law school approved by the American Bar Association or the Board (of Bar Examiners) and partly in said practicing attorney's office."

If this law study is with a practicing attorney, the Board of Bar Examiners is given the authority under § 54-62 to "prescribe reasonable conditions as to such course of study."

B. Rules of the Virginia Board of Bar Examiners for the "Law Reader" Program.

All participants in the "law reader" program receive written approval from the Virginia Board of Bar Examiners prior to beginning their course of study. It is the responsibility of the Board of Bar Examiners to determine both that the student and the attorney are qualified to engage in such study, and that the study itself is conducted in strict compliance with conditions approved by the Board.

Persons who complete their legal study under an attorney's supervision and file for a Virginia bar examination must meet the same character and residency requirements as all other applicants for the examination. Section 54-62 of the Code of Virginia requires proper certification that each applicant (1) meets the character requirements by being a person of honest demeanor, good moral character, and by being over the age of eighteen, and (2) meets the residence requirements for a Virginia bar examination and intends to continue in residence from the date of filing until taking such examination.

Persons who read law under an attorney's supervision and file to take the Virginia bar examination must meet the educational requirements in § 54-62(2) of the Code of Virginia, as outlined earlier. Having determined that the person who wishes to read law under an attorney's supervision would, upon successful completion of such study, qualify to take a Virginia bar examination, the Board must then determine whether or not such person is qualified to undertake such course of study. Such determination requires that the prospective student demonstrate to the Board (1) why study under an attorney's supervision, rather than graduating from an approved law school, is the better personal method of obtaining a legal education which will enable the student to properly practice law in Virginia; and (2) how, given the student's personal situation, he or she will have the time and financial resources to undertake this method of legal education.

Section 54-62(2) of the Code specifies that an attorney who supervises the study of an applicant for the bar examination shall (1) practice law in Virginia, (2) practice law full time, and (3) be approved by the Board of Bar Examiners. Thus, in order to supervise an applicant's program of legal studies, an attorney must meet the following minimal statutory requirements:

(1) Be properly admitted to practice law in Virginia and be an active member in good standing with the Virginia State Bar; and

(2) Maintain an office or firm, or be associated with an office or firm, which is located in Virginia and which represents itself as a business for the practice of law in Virginia; and

(3) Engage in the practice of law as his sole or major occupation or professional activity.

Further, the attorney must demonstrate to the Board of Bar Examiners that he or she is qualified to engage in such supervision of legal studies. In making that determination, the Board examines such criteria as:

(1) When and where did the attorney receive his or her legal education?

(2) When was the attorney admitted to practice law in Virginia? Has he or she practiced law full time in Virginia for at least two years prior to submitting an application for approval to supervise an applicant's study?

(3) Have there ever been any investigations made, charges brought, or disciplinary proceedings filed, or are any pending, against the attorney in Virginia or any other jurisdiction, by any professional regulatory body or institution, at any level? If so, what were the circumstances surrounding such actions, and what were the results of same?

(4) Has the attorney during his or her years of practice, handled cases and client needs which are sufficiently general in nature and broad in scope to establish a law practice which would afford a student a wide range of learning experiences?

(5) Has or does the attorney participate in any educational and/or professional associations or activities which regularly acquaint the attorney with current developments in the law? If so, to what extent does the attorney participate? If not, how does the attorney regularly acquaint himself or herself with current developments in the law?

(6) What library facilities (i.e., case books, texts, etc.) does the attorney have in his or her office or firm, or immediately available to such office or firm, which would be accessible to the student during regular study hours? Are such facilities adequate in all courses or subjects the student must cover during his or her term of study?

(7) What physical facilities (i.e., study space, desk, etc.) will be available to the student during regular hours in the attorney's office or firm? How accessible is such study space to both the library facilities the student will use and to the attorney's office?

(8) What regular schedule of hours does the attorney normally spend in his or her office engaged in the practice of law, and how many of such hours will he or she devote to the exclusive needs of the student during the course of a typical quarter of study?

(9) What is the attorney's general philosophy of legal education and how will such affect his or her interaction with the student in (a) outlining the subjects to be covered and choosing the texts and resource materials for each subject, and (b) guiding and assisting the student's actual study, and (c) examining the student's knowledge and understanding of each subject?

(10) What is the nature of the attorney's relationship to the proposed student, and how does such relationship affect the compensation the attorney will receive (personally or materially) for his or her investment of time and effort in the student's obtaining a legal education?

III. HISTORICAL BACKGROUND OF "READING LAW" IN VIRGINIA

The need to license and regulate attorneys was seen early by the Virginia legislature. In March of 1643, during the eighteenth year of the reign of Charles I of England, when Virginia was still a Crown Colony, an act regulating attorneys was passed by the General Assembly, the pertinent part of which reads as follows:

“Be it enacted, for the better regulating of attorneys and the great fees exacted by them, that it shall not be lawful for any attorney to plead causes on behalfe of another without license or permission first had and obtained from the court where the pleadeth.” 1 Hening, Statutes at Large 275 (1823).

This was only one of many laws enacted in the early years of Virginia which regulated attorneys and required them to be licensed before practicing their profession. Rules and regulations for the examination of applicants to be licensed were not adopted until June 1, 1896.

In January of that year, the General Assembly directed the Supreme Court of Appeals to promulgate rules and regulations for the examination of applicants. Chapter 41, [1895-1896] Acts of Assembly 49, 50. In 1908 the Court amended these rules and had them published in the preface to Volume 108 of the Virginia Reports.

It is interesting to note that these 1908 Rules required a person to be 21 years old before being licensed. Also, these Rules permitted applicants between 19 and 21 years of age to take the examination provided the applicant had “studied law for a period of two years in the law schools of this state, or in the office of a practicing attorney in this state (as the case may be).” Since the 1896 rules did not mention age or law study requirements, it appears that the law study requirements were first introduced in 1908, and then only for applicants who were between 19 and 21 years of age.

The Board of Bar Examiners (as we know it today) was created by Chapter 152, [1910] Acts of Assembly 238-240. According to the minutes, the Board held its first meeting at the Hotel Roanoke on Wednesday, June 22, 1910.

Prior to 1934, no formal education was required to qualify for the bar examination other than for applicants between 19 and 21 years of age. In 1922, an attempt was made to place the existing Rules governing the licensing of attorneys into statutory language by House Bill 363, but this attempt failed. In 1932, bills were introduced into both Houses of the General Assembly (House Bill 97, Senate Bill 220) to specifically add “academic and legal education” to those things required of applicants prior to taking the bar examination, but both bills failed.

The sponsor of House Bill 97 in the 1932 Session of the Assembly redrafted his legislation and introduced it as House Bill 220 in the 1934 Session. The bill, which passed the 1934 Assembly, set up minimum academic and law study requirements for those wishing to take the Virginia bar examination. In brief, the act required an applicant to have received a degree from a law school approved by the American Bar Association or completed the equivalent of at least a two-year academic course of an accredited college and studied law for two years under reasonable conditions prescribed by the Board. See , Chapter 266, [1934] Acts of Assembly 411. In short, this act permitted applicants to take the examination with a minimum of two years of academic work, or its equivalent, and with a minimum of two years of study in an attorney’s office.

Senate Bill 101, which passed the 1936 Session of the General Assembly, sought only to make the law, as amended in the previous session, more definite by specifically providing that the Board “shall not require any of such (law) study to be in a law school.” See , Chapter 53, [1936] Acts of Assembly 79.

Senate Bill 266, introduced in the 1938 Session, sought to raise the minimum time required to study law from two to three years. In addition, the study must be in the office of an attorney engaged in active practice of law for more than five years. The bill failed. The same attempt was made by House Bill 193 in the 1950 Session, which also failed.

In 1952, House Bill 38 passed the Assembly (to become effective in 1954) requiring applicants to have received a degree (or a certificate) from an A.B.A. approved law school, or to have completed three years of academic work in an accredited college and studied law three years in an attorney’s office, or studied law three years, partly in an attorney’s office and partly in an approved law school. Chapter 553, [1952] Acts of Assembly 867-869. Immediately prior to 1954, the effective date of this legislation, there were one hundred persons studying law under an attorney. By 1956, the number had dropped to twelve.

No attempt was made to again amend the statutes concerning the law reader program until

1973, when House Bill 1602 was introduced to completely abolish the program as of 1977. (The 1977 date was obviously chosen to permit all those "reading law" when the legislation was to become effective to finish their program.) This bill failed. The same attempt was made by House Bill 1704 in 1975, which also failed.

In 1976, House Bill 996 was introduced to, among other things, delete all the language in § 54-62(2) of the Code. This was also designed to abolish the law reader program in Virginia. This bill was carried over to the 1977 Session of the Assembly by the House of Delegates Committee for Courts of Justice. The next year, the House Committee reported the bill to the House floor by an 11-3 vote. The House refused to engross the bill and, as a result, it also failed.

A bill identical to House Bill 966 in the 1976 Session of the Assembly was introduced (as House Bill 1030) in the 1978 Session, by a different sponsor. The bill was again carried over to the next Session of the Assembly. The House Courts of Justice Committee (in the 1979 Session) passed this bill by indefinitely by a 13-1 vote. The Resolution under which the present study is being conducted was introduced some two weeks later in the 1979 Session.

IV. OTHER STUDIES OF THE LAW READER PROGRAM

Both the Virginia State Bar and the Virginia Bar Association have been on record for some years as favoring the abolition of the law reader program. See, e.g., letter from William T. Prince, President, Virginia State Bar, dated March 19, 1979, attached as Appendix 1; letter from R. Kenneth Wheeler, Chairman, State Bar Committee on Legal Education and Admission to the Bar, dated April 26, 1979, attached as Appendix 2.

In 1975, a joint Report was issued by the Committees on Legal Education and Admission to the Bar of the Virginia State Bar and the Virginia Bar Association. A copy of this report is attached as Appendix 3. The majority view of the joint report was that the program should be abolished.

In 1977, the Virginia State Bar Committee on Evaluation and Long-Range Planning issued its report. Reaffirming the Bar's continuing objection to the program, the Report noted that "[t]he modern practice of law and the educational demands on lawyers today are just too overwhelming to be adequately served on a do-it-yourself, trial-and-error basis." The Report then gave a formal recommendation that the program be abolished, as follows:

" Recommendation : that the law reader program (after appropriate preservation of existing rights) be terminated, so that in the future only graduates of accredited law schools are allowed to present themselves to the Virginia Board of Bar Examiners."

There was one alternative recommendation in this 1977 Report, that the law reader programs, while continued, be under the supervision of an attorney approved by a local circuit court judge as well as by the Virginia Board of Bar Examiners, and that, in all events, a law reader be required to attend an approved seminar or course on legal ethics and, prior to presentation to the Board for their examination, be required to take an examination on legal ethics.

These recommendations were referred to the State Bar's Committee on Legal Education and Admission to the Bar, which appointed a subcommittee of thirteen persons to study them.

The Report of the subcommittee was submitted by its chairman, Susanne S. Shilling, in an April 9, 1979 memorandum, attached as Appendix 4. The recommendation was the abolition of the law reader program. Notwithstanding this proposal, the subcommittee recommended various alternatives to strengthen the program if it was to be maintained.

It is questionable now whether formal action will be taken by the State Bar on these recommendations until the present study is completed by the Virginia Advisory Legislative Council.

V. RULES CONCERNING LAW READERS IN OTHER JURISDICTIONS

As best as can be determined, seven states (including Virginia) permit some form of "law reader" participation in bar examinations. The Committee deemed this of importance in that Virginia has the largest number of law readers of any state permitting this practice.

California

In California, the study of law for four years under the personal supervision of a practicing attorney or state court judge is sufficient preparation for the bar examination, provided the student satisfactorily completes monthly written examinations prepared and administered by the supervising attorney or judge during the course of study. The student is required to study in the law office or chambers during regular business hours at least 18 hours each week for at least 48 weeks each year. In addition, the student must successfully complete a first year law students' examination, administered by the Committee of Bar Examiners after the first year, before he or she may continue in the program.

To be eligible for admission to the law office/chambers study program in California, a student must have completed two years of college work in a college or university approved by the Bar Examiners, or pass an equivalency examination prescribed by the examiners.

The authority for "law reading" in California dates back to 1927. John A. Garfunkel, Consultant to a Special Committee of the State Bar of California presently studying legal education in the state, submitted a report on January 30, 1979, to the California State Bar. In the report, the "law reader" study is termed "obsolete" and "no longer a valid technique."

In Maine, a student who has successfully completed two-thirds of the requirements for graduation from a law school approved by the Board of Bar Examiners may study for an additional year entirely in the office of an attorney engaged in the active practice of law in the State. The Rule merely provides that a student "devote the principal part of his time to such study," which implies that the third year is a viable work-study arrangement.

Information obtained from the Maine Board of Bar Examiners in May, 1979, reveals that no one has used this provision to study law for the past ten years.

New York

The New York law office study program requires a student to complete at least one year of law school and thereafter study in a law office located in New York State under the supervision of one or more attorneys licensed to practice law there, so that the total time spent in law school and the law office shall aggregate four years. During law office study, the student must engage in the practical work of the law practice in addition to receiving instruction from the attorney(s) in those subjects customarily taught in law school.

Figures received from the New York State Board of Bar Examiners show the following pass-fail rate for those persons who participated in a law study and took the State's bar examination:

<u>Year</u>	<u>Number Taking</u>	<u>Number Passing</u>
1970	6	1
1971	5	0
1972	11	3
1973	8	0
1974	19	10
1975	14	5
1976	45	24
1977	57	24

Vermont

In Vermont, a person who has successfully completed three-fourths of the work accepted for a bachelor's degree may engage in a four-year course of legal study under the supervision of an attorney or judge, exclusive of any law school training. The Vermont program requires the student to spend at least 25 hours per week in the attorney's or judge's office for at least 44 weeks per year. Alternatively a combination of law school coursework and law office study to aggregate four years, is an acceptable way of preparing for the bar examination.

An interesting provision in Vermont's bar admission rules is the requirement that even law school graduates must spend at least six months engaged in supervised law office study immediately preceding his or her admission to the bar.

Figures from Vermont indicate that, in 1977, eight candidates for admission by examination had prepared by office study - two passed. In 1978, ten candidates prepared by office study and three passed.

Washington

The law office study program in Washington requires its applicants to have a bachelor's degree prior to commencing legal studies, and the student must be employed as a regular law clerk in the office of an attorney or state court judge. The student must pursue a course of study for four years of at least 48 weeks per year, with a minimum 30 hours of study each week. Students must successfully complete a written examination each month, prepared and administered by the supervising attorney or judge.

Wyoming

Wyoming requires all bar applicants to complete at least one year of law school, but after this the applicant may complete his or her studies in the office of a member of the bar or judge in Wyoming, for an aggregate of three years study.

During the past ten years, one person has followed this course of study for the bar examination. The applicant was successful in passing the exam.

As a result, only four of these seven states (one of which is Virginia) permit law study without formal legal education prior to taking the bar examination. During the course of its deliberations, the Council was aware that Delaware eliminated their program of law reading on December 30, 1974. The Supreme Court, in its order ending the practice, referred to it as "obsolete and unworkable, as evidenced by the paucity of states which continue to authorize such provisions and as evidenced by the impracticable burdens imposed upon the Board in prescribing, administering and supervising a course of study for applicants attempting to comply with such requirements and the guidelines of the Board."

The Rhode Island program was ended in 1969, along with a move in that state to restrict bar examination applicants from unaccredited law schools. Mississippi's program was eliminated on July 1, 1979. During its life, the program had 400 participants, 33 of which completed it and 16 of which passed the bar examination.

VI. VIRGINIA LAW READERS'

Record with the State Bar Examination

There are, as of this report, seventy-two persons who are at various stages of "reading law" in Virginia. The pass-fail ratio on the Virginia bar examination of Virginia law readers is compared to Virginia law school graduates and out-of-state law school graduates for the past ten years in the table attached as Appendix 5. Figures for the July 1, 1979 Virginia Bar Examination, which became available after the table was compiled, shows that 64.66% of all applicants taking the examination passed (355 of 549), 71.35% of Virginia law school graduates passed (127 of 178), 72.55% of out-of-state law school graduates passed (185 of 255), and 25% of the Virginia law readers taking the examination passed (5 of 20).

VII. VIRGINIA STATE BAR SURVEY OF LAW READERS

The Virginia State Bar, as a background for its subcommittee then studying the law-reader program, distributed a questionnaire to all current participants in the program, former participants and current supervising attorneys. The questionnaires sought to get an overall picture of the person who chooses to be a law reader.

Although not enough questionnaires from former law readers were returned to be of any significance, 70% of the current law readers did return the survey. Their responses indicate a diverse group, with varying levels of education. The only unanimity was their opposition to the abolition of the program.

All but three of the 57 people returning the questionnaire have bachelor's degrees and 23 have some graduate education. Thirteen hold master's degrees and one holds a doctor of laws degree from a foreign university.

Only one-half of the students had taken the Law School Admissions Test (LSAT). The average score of those reported was 544. Most had never applied to law school, but eight had been accepted in law schools and decided not to attend. Twelve had applied without gaining admission. Only one person began law office study after having been dismissed from a law school.

Most students cited financial reasons and the expense of law school as motivation for choosing law office study instead of law school. Many also indicated that family commitments or lack of access to a local law school influenced their choice. Some indicated that their age was a factor, and some simply preferred the flexibility of independent study over a structured law school curriculum. Several stressed the importance of the practical experience obtained in law office study.

Most students indicated that they are spending at least 18 hours studying in the law office, and many reported more than 20 hours. Only 3 persons admitted spending less than the 18-hour minimum requirement. Sixteen of the 56 students are working 20 or more hours per week for their supervising attorneys, and none appear to be employed more than part-time outside the law office. Of interest, however, is that almost half of the students do not work on cases in the law office at all, so their programs of study do not include an "apprenticeship".

Fifteen persons have audited or plan to audit courses in law school to complement their law office studies. Many attend continuing legal education programs. One student recommended that completion of one year of law school be a prerequisite for admission to law office study.

Almost all those responding to the questionnaire spend less than 10 hours per week with their supervising attorneys. In a departure from past practice in the program, 18 persons are supervised by sole practitioners. In another trend away from past experience, 9 students are supervised by a family member (father or brother).

VIII. PROCEEDINGS OF THE COMMITTEE

The Committee appointed by the Council to conduct the study held two public hearings in Richmond, on September 20th and November 19, 1979. At the first, Susanne S. Shilling appeared on behalf of the Virginia State Bar and basically outlined its studies and recommendations from years past, which are discussed earlier in this Report and are set out verbatim in Appendices 3 and 4. All five members of the Virginia Board of Bar Examiners were also present at the September meeting and urged the abolition of the program.

A synopsis of reasons to abolish the law reader program was given by the Chairman of the Board of Bar Examiners, J. Sloan Kuykendall. The question before the committee according to Kuykendall, is what is the best approach to legal education. He noted that in the early years of Virginia's history, when law reading flourished, today's complicated legal issues were not present.

He noted that the state's objective should be to afford applicants for the bar examination the best education possible in preparation for the exam. Even though some law readers will become effective lawyers, Mr. Kuykendall felt that the best preparation for the practice of law is to study in a law school that is set up to teach law.

He continued that the bar examiners were not equipped to sit in judgment over the qualifications of attorneys supervising law readers, even though general inquiries are made as to the adequacy of the attorney's library, etc. A full-time attorney, according to Mr. Kuykendall, does not have the time to adequately supervise a student of the law. On the other hand, law schools have a tested curriculum and qualified professors to perform the task.

In urging the committee to require law school education for persons taking the bar examination, Kuykendall commented that a lack of education and inability to deal with complicated legal issues is not fair to the lawyer, his client, or the public in general.

At both meetings, the Committee heard testimony and received position papers from both past and present law readers. All not only urged retention of the program, but asked the committee to strengthen the program to meet many of the arguments of those who favor its abolition. These law readers expressed varied reasons for choosing not to attend law school - (1) economic; (2) a bias toward an independent, unstructured study; and (3) the absence of a part-time law school near the reader's home.

After a thorough review of the issues involved in the study, the committee concluded its November 19, 1979, meeting by agreeing to the recommendations following, which are hereby adopted by the Council.

IX. RECOMMENDATIONS

It is the feeling of the Council that the law reader program should be retained, but strengthened. Those who wish for financial or other valid reasons to "read law" rather than attend law school should not be denied this educational opportunity by the General Assembly.

The Council, faced with the low pass-fail ratio on the Virginia Bar Examination by law readers as compared to law school graduates, recommends that the Virginia Board of Bar Examiners adopt the following recommendations as a part of their requirements and regulations concerning the law reader program:

(1) the requirement that an applicant for the law reader program present to the Board a letter of qualification for admission to a law school approved by the American Bar Association before he can be authorized to study under an attorney's supervision;

(2) the requirement that the applicant also persuade the Board that he or she has a valid reason for choosing not to attend law school, for example, due to financial hardship;

(3) the requirement that the Board of Bar Examiners develop and administer a "mini bar examination" designed to test the law reader's knowledge of "core legal subjects," such as contracts, torts, real and personal property, criminal law, legal ethics and civil procedure, after his first year's participation in the program.

It is the feeling of the Council that the Virginia Board of Bar Examiners should meet with representatives of the Virginia State Bar and discuss ways of further strengthening the law reader program without a view towards its abolition. In these meetings, the content and overall structure and curriculum of the program should be revised, with a view toward extending the length of time required for completion of the law reader program to four years.

Since none of the Council's recommendations require amendments to present Virginia statutes, it is felt that the members of the Virginia Advisory Legislative Council should sponsor a resolution to the 1980 Session of the General Assembly to urge the Virginia Board of Bar Examiners to adopt its conclusions as set out in this Report. The Resolution is attached as Appendix 6 to this Report.

The Council wishes to extend its appreciation to all those members of the committee conducting the study of the law reader program, especially to the citizen members of the committee. It was through their input that the view of non-lawyers became a part of the study and proved invaluable to its outcome.

Respectfully submitted,

Delegate George E. Allen, Jr., Chairman
Delegate C. Hardaway Marks
Senator Elliot S. Schewel
Senator L. Douglas Wilder
Dean Emerson G. Spies
Dean Thomas A. Edmonds
Dean William B. Spong
Dean Roy L. Steinheimer, Jr.
Dr. George M. Modlin
Dr. Calvin M. Miller
Dr. Richard Vacca
Mrs. Deborah W. Witcher
Mr. Edward G. Kidd
Mr. Vernon C. Womack

**Separate Statements of Delegate A. L. Philpott
and Senator Joseph V. Gartlan, Jr.**

I regret that my schedule did not permit me to attend any of the meetings of this committee. As a result, I do not feel that it would be appropriate for me to participate in the recommendation of the committee to the Virginia Advisory Legislative Council.

Delegate A. L. Philpott

Since my schedule did not permit me to attend any of the committee meetings on the law reader program, I, too, feel it is inappropriate to join in with the committee's recommendations. After a thorough review of the information before the committee and the language in the Report, I do feel that my vote would have been to abolish the law reader program if that information was all the information received by the committee during its deliberations.

Senator Joseph V. Gartlan, Jr.

Commonwealth of Virginia

VIRGINIA STATE BAR



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March 19, 1979

Mr. J. Edgar Pointer, Jr.
Attorney at Law
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Dear Edgar:

Thank you for your letter of March 14th. I am sending a copy of it with the enclosure to R. Kenneth Wheeler, Chairman of the Committee on Legal Education and Admission to the Bar.

As you know, the Virginia State Bar has expressed its view at each session of the General Assembly for the last three or four years that the law reader program should be abolished.

Ken Wheeler's committee is actively studying this question and as a matter of fact met on March 15th.

I am certain that Ken Wheeler will keep abreast of any hearings conducted by the VALC because his committee is the most appropriate to represent the view of the Virginia State Bar.

Sincerely yours,

William T. Prince

WTP:jck

cc: Mr. R. Kenneth Wheeler - w/encl.
Mr. William M. Baskin - w/encl.
Mr. N. Samuel Clifton

APPENDIX I

HUNTON & WILLIAMS
707 EAST MAIN STREET P. O. Box 1535
RICHMOND, VIRGINIA 23212
TEL PHONE (804) 788-8200
CABLE HUNTWAND

RECEIVED
APR 27 1973

VA. STATE BAR

WASHINGTON, D. C. OFFICE
1730 PENNSYLVANIA AVE., N. W. 200
P. O. Box 19230
TELEPHONE (202) 3 3-7400

April 26, 1973

Mr. J. Edgar Pointer, Jr.
Gloucester, Virginia 23061

FILE NO.

DIRECT DIAL NO. (804) 788-8200

Virginia State Bar
Committee on Legal Education
and Admission to the Bar

Dear Mr. Pointer:

I have read and thank you for your thoughtful letter of April 23.

As you will recall, it was the almost unanimous (one dissent) view of the full Committee on Legal Education and Admission to the Bar that the law reader program should, in a perfect world, be abolished. However, Mrs. Shilling's subcommittee and the Committee as a whole recognized that there has been marked resistance in the past from the General Assembly to abolishing the program. Accordingly, and in an effort to be realistic, we were of the view that if the program could not be abolished, it should be at least strengthened so as to produce a better quality of lawyer. We, of course, realize that our efforts to strengthen the program could be interpreted by some as a weakening to the total opposition to the program's existence at all. Nonetheless, we thought a realistic and responsible discharge of our duties required we, after considerable study, offer some salutary suggestions. Be assured, our Committee does stand solidly against the continuance of the law reader program and that that view will be urged by our successors on the VALC Committee.

Thank you for your kind words. Best regards.

Sincerely,



R. Kenneth Wheeler

34/422

cc: Mr. William C. Prince
Mr. William M. Baskin
Mr. H. Samuel Clifton
Mr. James M. Woodson
Mrs. Susanne L. Shilling
Mrs. A. Jane Bradley

APPENDIX 2

REPORT OF THE
COMMITTEES ON LEGAL EDUCATION AND
ADMISSION TO THE BAR OF
THE VIRGINIA STATE BAR AND THE VIRGINIA BAR ASSOCIATION

On January 17, 1975, during the Mid-Winter Meeting of The Virginia Bar Association in Williamsburg, a joint meeting was held of the Legal Education and Admission to the Bar Committees of the Virginia State Bar and The Virginia Bar Association to consider again the positions of the two organizations with respect to the law office study program which is provided for by Va. Code Ann. § 54-62(2). At that meeting, which was well attended by the members of the two committees, two participants in the program - Jane Bradley and Marc Feldman - presented an excellent report which they had prepared relative to the program. That report contained useful statistical data, suggestions for improvement of the program and a plea for the continuation of the program.

A full discussion of the pros and cons of the program was held and, while the great majority of those in attendance appeared to be of the opinion that the statute authorizing it should be repealed, it was decided that a joint subcommittee should be appointed to give the matter further consideration. Accordingly, E. Carter Nettles, Jr. and Richard B. Spindle, III, of the Virginia State Bar, and Jack E. Greer

APPENDIX 3

and Archibald Wallace, III, of The Virginia Bar Association, were asked to serve on the joint subcommittee.

On November 4, 1975, a joint meeting of the two full committees was held in Richmond to consider the conclusions and recommendations of the joint subcommittee. Nine members of the committees were present, together with N. Samuel Clifton, of the Virginia State Bar. Several other members, who could not be present, had conveyed their views by letter or telephone.

Three members of the joint subcommittee were of the opinion that the program should be discontinued and that the statute should be repealed. One member was of the opinion that the program should be retained if the procedures were strengthened in several particulars.

Throughout all of the discussions that have been held by the committees and the subcommittees, it was recognized by everyone that the program should be strengthened if it is to be retained. Among the suggestions for strengthening the program are:

1. Removal of the administration of the program from the Board of Bar Examiners to a new Legal Apprenticeship Committee (L.A.C.) to be appointed by the Supreme Court of Virginia or by the State Bar Council.

2. L.A.C. to administer a "mini" bar exam-

nation to participants at the completion of their first year of study.

3. L.A.C. to submit a planned curriculum for each quarter's activities.

4. L.A.C. to implement periodic checks on both the supervising attorney and the participant.

5. L.A.C. to institute required seminars, workshops and submission of briefs by which to evaluate the participants.

6. L.A.C. to require a \$200 fee annually from each participant to help defray the expenses of the program.

7. Require all participants to be supervised by an attorney who is affiliated with at least one other practicing attorney (elimination of single practitioners as supervising attorneys).

8. Require quarterly affidavit by each participant and supervising attorney reporting on such things as: actual material studied and read; number of hours spent in various activities; and workshops, seminars and other courses attended or completed by the participants.

9. Establishment of cooperative programs with Virginia law schools and those of neighboring states

to permit participants to use law libraries and to audit courses offered by the law schools.

10. Upon completion of the program, require participants and supervising attorneys to submit detailed evaluations of the program.

At the meeting on November 4, the advantages and disadvantages of the program, together with suggestions for its improvement, were again thoroughly discussed.

The joint subcommittee considered the following reasons for continuing the program:

a. The program offers an alternative to the structured legal education provided by law schools.

b. The program enables persons to obtain admission to the Bar who are unable to attend law schools for financial or other personal reasons.

c. The program provides a method of legal education for those who cannot obtain admission to law schools because of the fallibility of admission procedures of the law schools.

The following reasons for discontinuing the program were considered:

a. It is difficult if not impossible to assure that the supervising attorney is qualified to and otherwise able to fulfill his responsibilities to the participant.

b. It is difficult if not impossible to assure that the supervising attorney does not take advantage of the participant by utilizing him or her to perform work which may not be in the best interest of providing the participant with the type of experience, education and training envisioned by the program.

c. It is difficult if not impossible to assure that the participant obtains the foundation of a basic legal education deemed necessary for a member of the legal profession.

d. It is difficult if not impossible to administer and monitor the program to assure that the participants and the supervising attorneys carry out their respective responsibilities.

e. The program should not be offered to those who could not qualify for admission to

an accredited law school but there is no practical way to safeguard against this.

f. The program should not be offered to those who are qualified for admission to an accredited law school and who are able, financially or otherwise, to attend. While there are some persons who are so qualified, but who are not able to attend for financial or other personal reasons, it is believed that this number is so limited that the continuation of the program, because of all the problems, is not warranted just for them.

While the program in Virginia should be judged on its own merits, it is perhaps significant that the American Bar Association's Section on Legal Education and Admission to the Bar has advised that only Virginia, California, Washington and Mississippi presently have some form of "law reader" program. Likewise, the Virginia Association of Professions has advised that it is unaware of any other profession which provides for licensing by means of an apprenticeship program.

After considering fully all of the advantages and disadvantages of the program, with the paramount objective of deciding whether the continuation of this program is in the best interest of the public, it was determined that on balance

the disadvantages of the program far outweigh its advantages. This conclusion was reached by all but two of the members of the two committees who expressed themselves concerning it. Accordingly, the joint committee of the Virginia State Bar and The Virginia Bar Association adopted the following resolution:

RESOLVED that the Committees on Legal Education and Admission to the Bar of the Virginia State Bar and The Virginia Bar Association, acting jointly, recommend to the Council of the Virginia State Bar and the Executive Committee of The Virginia Bar Association that appropriate action be taken by those organizations to seek the repeal of Va. Code Ann. § 54-62(2), which authorizes the law office study program, with provision being made to permit those participants in the program on the date of the repeal to complete the program provided that they do so by a date certain to be provided in the repealing legislation.

BE IT FURTHER RESOLVED that the Council and Executive Committee are urged, if they concur in the above recommendation, to initiate a strong and effective program to inform the members of the General Assembly of the reasons for the proposed legislation and to make clear that such legislation is deemed to be in the public interest and is in no way an effort to restrict or limit the number of licensed attorneys.

Respectfully submitted,

COMMITTEE ON LEGAL EDUCATION AND ADMISSION
TO THE BAR - THE VIRGINIA STATE BAR

Chairman

COMMITTEE ON LEGAL EDUCATION AND ADMISSION
TO THE BAR - THE VIRGINIA BAR ASSOCIATION

Chairman

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FREDERICK C. FAGAN
J. DURWOOD FELTON, III
SUSANNE L. SHILLING

TELEPHONE (804) 283-7331
CABLE FELGAN

MEMORANDUM

April 9, 1979

TO: R. Kenneth Wheeler, Chairman
Virginia State Bar Committee on
Legal Education and Admission to the Bar

FROM: Susanne L. Shilling, Chairman
Subcommittee on the Law Reader Program

Re: Proposals to Strengthen the Law Reader Program

This subcommittee initiated and administered a study of the current functioning of the law reader program at the conclusion of which it reported its findings to the committee. Independent of those findings the subcommittee proposed that the committee formally recommend the abolition of the program. The proposal was bolstered by the subcommittee's consideration of the recent accreditation of an additional law school in Virginia, George Mason Law School, and by the fact that all Virginia law schools have instituted and are currently involved in developing increasingly expansive clinical programs within the present law school curriculum.

Notwithstanding that proposal, the subcommittee was charged with responsibility to formulate alternatives by which the program, if retained, might be strengthened, and to examine,

with a representative of the Virginia Board of Bar Examiners, the acceptability of any additional costs imposed by such efforts. These alternatives are all the more timely made considering the existence of Joint Senate Resolution No. 126, requesting that the Virginia Advisory Legislative Council "study the effects of permitting a person to take the examination for admission to the Bar after studying law for three years in the office of a licensed attorney."

The subcommittee first wishes to note its approval of the revised rule by which supervising attorneys or their partners, associates, and office sharing partners may no longer pay any remuneration to law readers which, it believes, will serve to improve the functioning of the program.

In addition to the foregoing, the subcommittee makes the following suggestions for strengthening the program.

1. That the Board of Bar Examiners develop a comprehensive study program including a list of specific reading materials in subjects considered to be of basic importance to legal education.

2. That the Board of Bar Examiners require the use of and make available to supervising attorneys a form of "mini-bar examination" to be administered to law readers by supervising attorneys in the latter's offices during the nine to eighteenth month period following the law reader's acceptance into the program.

The examination, which would be designed to test the

law reader's knowledge of basic subjects such as contracts, torts, real property, criminal law and constitutional law, although compulsory, would provide no sanctions related to performance. Rather, its purpose would be as a guide for supervising attorneys and their law readers, and any further action based on such performance would be at the discretion of the supervising attorney.

3. That law readers, without remuneration, be required to spend a portion of their time, not less than 20 hours per month, actively engaged in the ongoing work of the law office; i.e. observing court appearances, doing research and drafting, and participating in trial preparation and discovery.

This time would be in addition to the 18 hours of reading per week already required of law readers, and would be reported on all required quarterly reports.

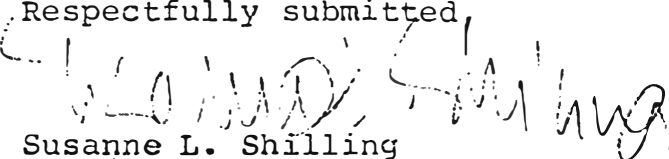
4. At the complete discretion of the Board of Bar Examiners, that there be created a legal apprenticeship committee under the auspices of the already existing Committee on Legal Education and Admission to the Bar, or independent of it, appointed in a manner and composed of persons satisfactory to the Board of Bar Examiners, to assist in or to assume responsibility for the administration of the program.

5. That there be instituted an enrollment fee, payable annually, to be utilized to defray the costs imposed by these recommendations and by the overall functioning of the

program.

It is suggested that the foregoing represent a limited group of concrete proposals, the cost of which, if offset by the payment of an enrollment fee, would not impose an undue burden upon the Board of Bar Examiners.

Respectfully submitted,


Susanne L. Shilling

EXAMINATION	ALL APPLICANTS			VIRGINIA LAW SCHOOLS			VIRGINIA "LAW READERS"			OUT-OF-STATE LAW GRADUATES		
	TOOK	PASSED	%PASSING	TOOK	PASSED	%PASSING	TOOK	PASSED	%PASSING	TOOK	PASSED	%PASSING
February, 1979	710	466	66%	327	259	79%	21	9	43%	362	198	55%
July, 1978	490	333	68%	165	130	79%	11	5	45%	314	198	63%
February, 1978	662	464	70%	298	247	83%	13	5	39%	2	212	60%
July, 1977	624	428	69%	174	140	80%	14	5	36%	436	283	65%
February, 1977	705	559	79%	340	300	88%	9	4	44%	356	255	72%
July, 1976	491	385	78%	160	137	86%	9	3	33%	322	245	76%
February, 1976	586	515	88%	359	332	92%	12	8	66%	215	172	81%
July, 1975	526	400	76%	177	148	84%	9	2	22%	340	250	74%
February, 1975	532	416	78%	274	241	88%	6	2	33%	252	173	69%
July, 1974	484	369	76%	182	157	86%	4	0	0%	298	212	71%
February, 1974	282	210	74%	170	149	88%	1	0	0%	111	61	55%

APPENDIX 5

(beginning of Multiple/Essay examination)

December, 1973	200	110	55%	51	36	71%	4	1	25%	145	73	50%
June, 1973	603	547	91%	345	333	97%	6	3	50%	252	211	84%
December, 1972	258	171	66%	70	55	79%	6	2	33%	182	114	63%
June, 1972	547	387	71%	296	242	82%	2	2	100%	249	143	57%
December, 1971	196	107	55%	62	41	66%	4	0	0%	130	66	51%
June, 1971	482	366	76%	265	216	82%	4	0	0%	213	150	70%
December, 1970	164	95	58%	47	33	71%	4	2	50%	113	60	53%

Appendix 6

Senate Joint Resolution No.

Requesting the Virginia Board of Bar Examiners, after consultation with the Virginia State Bar, to report to the Virginia Advisory Legislative Council on ways to strengthen the law reader program in Virginia.

WHEREAS, Virginia has, since the beginning of its history, permitted persons to read law under an approved attorney's supervision as a prerequisite to being admitted to the bar and, in more recent years, to taking the Virginia Bar Examination; and

WHEREAS, efforts have been made over many years to adopt legislation which would abolish the law reader program in Virginia, all of which have failed; and

WHEREAS, the Virginia Advisory Legislative Council has, pursuant to Senate Joint Resolution No. 126, studied the effects on the citizenry of the Commonwealth of permitting the practice of law reading as opposed to a law school education prior to taking the bar examination; and

WHEREAS, the Virginia Advisory Legislative Council has recommended that the program of reading law be maintained and strengthened; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, that the Virginia Board of Bar Examiners, after consultation with the Virginia State Bar and any other interested groups, develop regulations pertaining to the law reader program authorized by § 54-62 of the Code of Virginia. In the development of these regulations, the Board should consider, but not limit its deliberations to a consideration of, (1) the requirement that an applicant for the law reader program present the Board a letter of admission to an A.B.A. approved law school before beginning his study under an attorney; (2) the requirement that the applicant persuade the Board that he or she has a valid reason for choosing not to attend law school; (3) the administering of a "mini bar examination" after the reader's first year in the program to test the reader's skills in basic legal subjects; and (4) further ways to provide the reader with a more structured course of study, closer supervision by the attorney under whom the reader is studying, and the possible extension of the period required for the completion of the study. A report by the Board of Bar Examiners should be made to the Virginia Advisory Legislative Council no later than November one, nineteen hundred eighty.