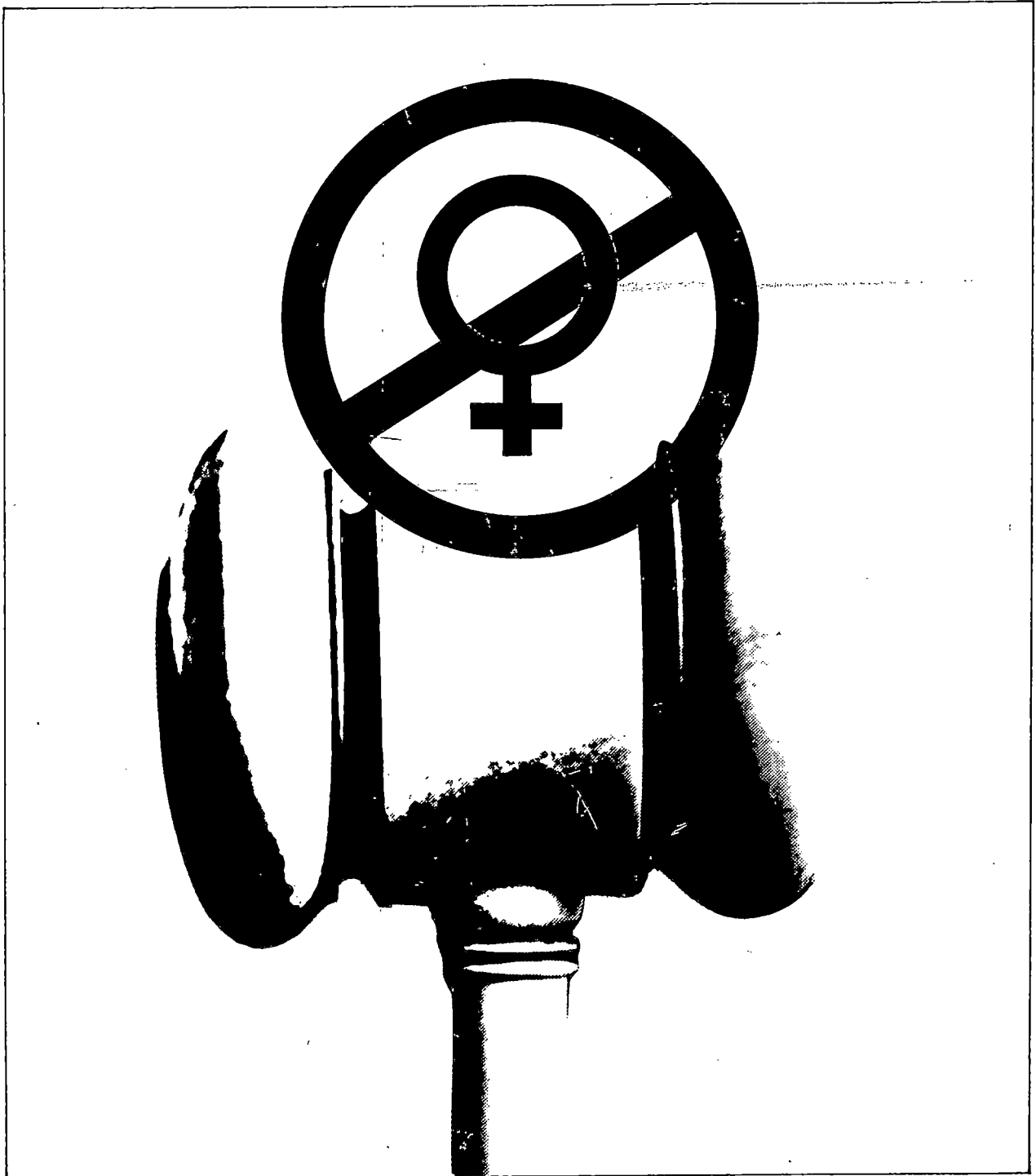


Sex Discrimination and Title VII in Virginia

April 1981



—A report of the Virginia Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission and the Commission will make public its reaction. In the meantime, the recommendations in this report should not be attributed to the Commission, but only to the Virginia Advisory Committee.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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Sex Discrimination and Title VII in Virginia

—A report of the Virginia Advisory Committee to
the U.S. Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Virginia Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

RIGHT OF RESPONSE:

Prior to the publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

LETTER OF TRANSMITTAL

VIRGINIA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS
April 1981

MEMBERS OF THE COMMISSION

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Mary F. Berry, *Vice Chairman*
Stephen Horn
Blandina C. Ramirez
Jill S. Ruckelshaus
Murray Saltzman

Louis Nuñez, *Staff Director*

Dear Commissioners:

The Virginia Advisory Committee to the U.S. Commission on Civil Rights transmits to you this report on *Sex Discrimination and Title VII in Virginia* as part of its responsibility to advise the Commission about civil rights problems within the State of Virginia.

As you know, Congress did not charge the U.S. Commission on Civil Rights with the duty to study denials of equal protection of the law based on sex until 1972. This report deals specifically with complaints of sex discrimination in employment in Virginia filed under Title VII of the Civil Rights Act of 1964 as amended between 1972-1979. In studying the employment discrimination complaints made by women in Virginia, the Virginia Advisory Committee learned that Virginia does not have a State law prohibiting employment discrimination. No State agency or commission is empowered to handle employment discrimination complaints from the general public. The State has only recently given statutory authority to the Virginia Equal Employment Opportunity Committee to monitor the State Equal Employment Opportunity Program, the latter established by Executive Order. There are only three local human rights commissions in Virginia and they are restricted to handling complaints of employment discrimination within their geographic areas. The majority of employment discrimination complaints are handled by the U.S. Equal Employment Opportunity Commission, with three areas offices serving Virginia (Washington, D.C., Norfolk, and Richmond).

The Advisory Committee is proposing several recommendations to appropriate Federal, State, and local officials in an effort to improve the equal employment opportunities of women in Virginia and to strengthen compliance with Title VII of the Civil Rights Act of 1964, as amended. The Advisory Committee requests the Commission's endorsement of these proposals.

Respectfully submitted,

RUTH HARVEY CHARITY, *Chairperson*
Virginia Advisory Committee

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recommendations of this report.

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The Advisory Committee also wishes to thank the staff of Federal, State, and local agencies that provided data and general advice to the authors.

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Introduction

The Virginia Advisory Committee has monitored legal developments in Virginia regarding sex discrimination in employment and in other areas since the early 1970s, when sex discrimination became part of the mandate of the U.S. Commission on Civil Rights.¹ However, it was not until the Advisory Committee decided to investigate employment discrimination based on sex that it realized the full extent to which Virginians must depend upon Title VII for equal employment opportunity protection.

Between 1965 and 1968, the only source of help available regarding employment discrimination in Virginia was the U.S. Equal Employment Opportunity Commission (EEOC) in Washington, D.C. EEOC administers Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, national origin, and sex.² No other agencies located in the State were authorized to investigate formal complaints of employment discrimination until 1968. At that time, the Richmond Commission on Human Relations was established by the Richmond City Council to take charges of discrimination brought against an employer within the City of Richmond, but the Richmond commission had no enforcement power.³

In 1974 and 1975, respectively, the Fairfax County Human Rights Commission and the Alexandria Human Rights Commission were established to handle charges of discrimination made against em-

ployers in Fairfax County and Alexandria, respectively.⁴

In 1976, a Virginia Equal Employment Opportunity Program was established by the Governor of Virginia to handle charges of discrimination made by employees working for State agencies.⁵ Again, the program was restricted to a small part of the State's population.

In 1977, EEOC opened a field office in Richmond to receive and investigate charges of discrimination filed under Title VII of the Civil Rights Act of 1964. Since then, EEOC has opened another area office in Norfolk.⁶

In 1979, the Richmond City Code was revamped and its provisions strengthened to include the power to seek subpoenas and injunctions and to enforce contract compliance.

Thus even after 1968, EEOC remained the only source of aid for the vast majority of Virginians with discrimination complaints. There is no general State law prohibiting employment discrimination per se in State government, local government, or in the private sector, based on sex or any other basis.

The Virginia Equal Pay Irrespective of Sex Act (referred to below as the Virginia Equal Pay Act)⁷ and the Fair Employment in Contracting Act,⁸ both of which were passed in 1976, are antidiscrimination laws affecting employment but are not comprehensive. The Virginia Equal Pay Act applies only to

¹ Civil Rights Act of 1957, §§101-106, 71 Stat. 634; as amended by the Civil Rights Act of 1960, 74 Stat. 86; as amended by the Civil Rights Act of 1964, 78 Stat. 241; as amended by 81 Stat. 582 (1967); and as amended by 84 Stat. 1356 (1970); 86 Stat. 813 (1972); 42 U.S.C. 1975 (1976); and by 92 Stat. 1067 (1978) (codified at 42 U.S.C. §§1975-1975e (1978)).

² Civil Rights Act of 1964, Pub. L. No. 88-352, Title VII, §§701-715, 716(c), 718; as amended by 86 Stat. 103 (1972); as amended by 92 Stat. 2076 (1978) (codified at 42 U.S.C. §§2000e-2000e-13, 2000e-15, 2000e-17 (1978)).

³ Richmond, Va., Richmond City Code of 1975, as amended, ch. 17.1, Human Rights (1975); as amended by Ordinance 79-79-77 (1979).

⁴ Fairfax, Va., 1976 Code of the County of Fairfax, as amended, ch. 11 (1980), and Alexandria, Va., 1963 Code of the City of Alexandria; as amended, ch. 18A, Human Rights (1975).

⁵ Virginia Executive Order No. 1, Aug. 5, 1976; as amended Jan. 31, 1978.

⁶ See chapter 5 regarding the establishment of EEOC area offices between 1977 and 1979 in Virginia and throughout the U.S.

⁷ Equal Pay Irrespective of Sex Act, Va. Code §40.1-28.6 (1976).

⁸ Fair Employment in Contracting Act, Va. Code §§2.1-374 through 376 (1979).

employers not covered by the Federal Equal Pay Act.⁹ The Virginia Department of Labor and Industry, which administers the Virginia Equal Pay Act,¹⁰ has no authority to initiate suits on behalf of complainants.¹¹ They must sue on their own.¹²

The Fair Employment in Contract Act requires that all State government contracts involving an amount more than \$10,000 must include provisions in which the contractor agrees not to discriminate in employment on the basis of race, religion, color, sex, or national origin, and to post the nondiscrimination clause and include it in solicitations of employment. However, the act explicitly states that State agencies are not empowered to require affirmative action hiring plans from government contractors. The act lacks any enforcement mechanism.

Men have filed very few charges of employment discrimination based on sex under Title VII. This report focuses on complaints filed by women, since they make up almost the entire population of persons filing such charges.

Some of the data published in this report are published here for the first time. EEOC furnished data specifically requested by the Virginia Advisory

Committee on sex discrimination complaints it received between 1972 and 1979. The information between 1977 and 1979 is less detailed due to the recent reorganization of EEOC and changes in the way complaints are being processed that affect data collection.

According to complaints analyzed in the course of this study, in preemployment interviews women are still being asked about marital status, pregnancy, future childbearing plans, child-care plans, the number and age of their children, and other such questions that clearly violate Title VII.¹³ Furthermore, women who complain of sex discrimination named the same employment issues in all of the major labor areas in Virginia, with roughly the same frequency, regardless of whether or not their employers were in the public or private sector.¹⁴

It is the hope of the Advisory Committee that this report will provide new insights into the problems faced by women in Virginia in achieving equal employment opportunity and will lead to renewed voluntary efforts of employers to seek ways to end employment discrimination in Virginia based on sex.

⁹ Equal Pay Act of 1963, Pub. L. No. 88-38, §3, 77 Stat. 56, (codified in 29 U.S.C. §206(d)(1978)); Fair Labor Standards Act of 1938, ch. 676, §6, 52 Stat. 1062.

¹⁰ Virginia Code §40.1-1 (1979 Supp.).

¹¹ Virginia Code §40.1-49.4 (1979 Supp.).

¹² Virginia Code §40.1-28.6 (1976).

¹³ Pre-employment Inquiries as to Sex, 29 C.F.R. §1604.7 (1979).

¹⁴ CCR staff review of EEOC Washington, D.C., Area Office files, January 1972-April 1977 (hereinafter called staff review).

Working Women in Virginia

Population and Labor Area Statistics

Since World War II, concentration of economic activity in Virginia has shifted from farms to towns and cities. In 1977, the State contained 27 labor market areas (LMAs). LMAs, as defined by the Virginia Employment Commission, are geographic areas consisting of a central city or cities and the surrounding territory in which there is a concentration of economic activity and in which workers can generally change jobs without changing their residence.¹

The largest concentrations of economic activity (LMAs) are in those areas of the State designated as Standard Metropolitan Statistical Areas (SMSAs) by the U.S. Bureau of the Census.² They are the Virginia portion of the Johnson City-Kingsport-Bristol, Tennessee-Virginia SMSA; the Lynchburg SMSA; the Newport News-Hampton SMSA; the Norfolk-Virginia Beach-Portsmouth, Virginia-North Carolina SMSA; the Northern Virginia portion of the Washington, D.C., SMSA;³ the Petersburg SMSA; the Richmond SMSA; and the Roanoke SMSA.

In 1975, 61 percent of all females in Virginia 14 years of age and over were living within one of the

State's metropolitan areas.⁴ Concentration of economic activity in these areas has generated job opportunities that have been taken by an increasing number of women. In 1940, one female worked for every three males in Virginia's civilian labor force.⁵ By 1970 the ratio stood at two to three.⁶ Estimates for 1977, made by the Virginia Employment Commission, placed the ratio at about the same as in 1970; 39.8 percent of the State's civilian labor force was comprised of women.⁷

In 1977, an estimated 947,790 women were part of the State's civilian labor force; that is, they were either working or unemployed and actively seeking work.⁸ The number of women in the civilian labor force in the Northern Virginia LMA represented 23 percent of the State total. The Norfolk SMSA and Richmond SMSA, respectively, represented 13 and 14 percent of the total. These three areas combined accounted for 50 percent of all women in the civilian labor force in Virginia in 1977.⁹ (See Table 2.1)

Table 2.2 shows that three LMAs had unemployment rates for women in 1977 that were 2 percentage points lower than the 7.2 percent unemployment rate for all women in Virginia's civilian labor force. They were the Lynchburg SMSA, the Northern

¹ State of Virginia, Virginia Employment Commission, *Labor Market Information for Affirmative Action Programs* (November 1978), p. 409.

² Standard Metropolitan Statistical Areas (SMSAs) are defined as a county or group of contiguous counties which contain at least one city of 50,000 inhabitants or more, or "twin cities" with a combined population of at least 50,000. In addition to the county or counties containing such a city or cities, contiguous counties are included in an SMSA if, according to certain criteria, they are socially and economically integrated with the central city. The population living in SMSAs is designated as the metropolitan population. The population is subdivided as "inside central city or cities" and "outside central city or cities." In New England, SMSAs are composed of cities and towns.

³ In Virginia, these SMSAs are generally referred to as Bristol SMSA, the Lynchburg SMSA, the Newport News SMSA, the Norfolk SMSA, and the Northern Virginia SMSA.

⁴ Based on data from U.S. Department of Commerce, Bureau of the Census, *Consumer Income*, June 1978, p. 99.

⁵ State of Virginia Employment Commission, *Report on Women in Virginia* (September 1978), p. 8.

⁶ *Ibid.*, p. 8.

⁷ *Labor Market Information*, p. 1.

⁸ *Ibid.*

⁹ Percentages computed from data in *Labor Market Information*, p. 1, 8-13.

Virginia LMA, and the Richmond SMSA. They were also the three LMAs with the highest percentage of employed women in their civilian labor force, or 40.3 percent, 41.5 percent and 41.1 percent, respectively.

Women Employees: Public Sector

The total number of employed workers in Virginia in 1977 was 2,256,000, of which 39 percent (879,840) were women.¹⁰ The largest employer in Virginia is government—Federal, State, and local governments combined.¹¹ In November 1977, 33.2 percent of the 133,409 Federal employees in Virginia's civilian labor force were women.¹² Federal employees were 6 percent of all employed persons in Virginia. An additional 100,000 Virginians worked for the Federal Government in Washington, D.C.,¹³ for a total of approximately 233,409, or 9.7 percent of the total number of employed persons in Virginia at that time.

The largest concentrations of Federal workers in Virginia are located in Newport News, Norfolk, Richmond, and Northern Virginia. In November 1977, 79,000 Federal workers lived in the Northern Virginia LMA; 13,822 in the Newport News-Hampton SMSA, 32,274 in the Norfolk-Virginia Beach-Portsmouth, Virginia-North Carolina SMSA, and 8,144 in the Richmond SMSA.¹⁴ Women, as a percent of Federal workers in these areas were, respectively, 40 percent, 34 percent, 22 percent, and 37 percent.¹⁵

The number of persons employed by the State government in Virginia is less than either the Federal or local levels of government (towns, cities, and counties). In June 1977, 75,656 persons worked for the State; of these, 35,338 were women, or 46.7 percent.¹⁶

In June 1977, the ten largest State agencies and the percentage of women each employs were the Department of Highways, 9.85 percent; Department of Mental Health and Mental Retardation, 71.34 percent; Virginia Commonwealth University, 67.39 percent; University of Virginia, 54.09 percent; Vir-

ginia Polytechnic Institute and State University, 43.27 percent; Department of Corrections, 25.78 percent; Department of Community Colleges, 49.32 percent; Department of Health, 70.49 percent; Alcoholic Beverages Control Board, 14.38 percent; and Division of Motor Vehicles, 74.56 percent.¹⁷

1978 was the first year in which the State of Virginia gathered statistics on the number of women employed as government workers (non-Federal) in the State. Including not only full-time workers, but also part-time workers and students, 213,500 persons worked at the town, city, and county levels of government in Virginia in 1978, of which 117,500 or 55.0 percent were women. An additional 115,400 persons were employed by State agencies, for a total 328,900. Women numbered 176,200 or 53.6 percent.¹⁸

Women Employees: Private Sector

While the largest single employer in Virginia is government, the majority of those in the civilian labor force in all of the labor market areas in the State work for industry. Within the private sector, the single largest employer is the Newport News Shipbuilding and Dry Dock Company, which employs about 22,000 persons.¹⁹ Among other large employers in the private sector providing services are the C&P Telephone Company, General Electric Company, I.B.M. Corporation, Western Electric Company, Westinghouse Electric Corporation, Computer Sciences Corporation, and Xerox Corporation.²⁰

Manufacturing industries throughout the State of Virginia include employers such as Burlington Industries, E. I. Dupont, Phillip Morris, Inc., Dan River, Inc., Reynolds Metals Company, Hercules, Inc., Lynchburg Foundry Company, Bassett Furniture Industries, Babcock & Wilcox Company, Brown & Williamson Tobacco Corporation, and Craddock-Terry Shoe Corporation.²¹

Trade industries in Virginia include Sears, Roebuck & Company, J.C. Penny Company, K-Mart,

Committee, in U.S., Commission on Civil Rights, Mid-Atlantic Office files (hereafter referred to as CCR Files).

¹⁷ Maya Hasegawa, Acting State EEO Coordinator, telephone interview, Nov. 19, 1979.

¹⁸ Ruby Butler, Current Employment Statistics, Virginia Department of Labor and Industry, telephone interview, July 7, 1980.

¹⁹ Peter Bacque, "Growth Industry, Big Government Growing Bigger at All Levels," *Richmond Times-Dispatch* (Nov. 4, 1979), G-1.

²⁰ Virginia Employment Committee, "List of U. I. Covered Employers in Virginia by Size of March Employment—1978," unpagged.

²¹ *Ibid.*

¹⁰ *Labor Market Information*, p. 1.

¹¹ State of Virginia, Virginia Employment Commission, *1985 Industrial and Occupational Employment Projections for the State and Six Metropolitan Areas* (January 1978), p. 2.

¹² U.S., U.S. Civil Service Commission, *Equal Employment Opportunity Statistics* (November 1977), p. 520.

¹³ George W. Wilburg, "Va. good 'recession-proof state,'" *The Free Lance-Star*, Fredericksburg, Va. (Nov. 20, 1979), p. 9.

¹⁴ *Equal Employment Opportunity Statistics*, pp. 522-527.

¹⁵ *Ibid.*

¹⁶ Appropriations Request, FY 78 and FY 79, for the Governor's EEO

TABLE 2.1**Women in Virginia Civilian Labor Force: 1977 Estimates**

SMSA	Number	Percent
Bristol LMA	12,130	1.0
Lynchburg SMSA	28,120	3.0
Newport News-Hampton SMSA	61,630	7.0
Norfolk-Virginia Beach-Portsmouth SMSA	124,500	13.0
Northern Virginia LMA	216,130	23.0
Petersburg SMSA	24,040	3.0
Richmond SMSA	129,480	14.0
Roanoke SMSA	39,820	4.0
All other areas of State	311,940	33.0
Total	947,790	101.0*

* Does not equal 100 percent due to rounding.

Source: State of Virginia, Labor Market Information for Affirmative Action Programs (1977). Condensed from pp. 1-14.

TABLE 2.2**Status of Women in Labor Market Areas in Virginia (1977 estimates)**

Labor Market Areas (LMAs)	Population	Women as a Percent in LMAs			Unemployment Rate
		Civilian Labor Force	Employed	Unemployed	
Bristol LMA	52.2	33.8	33.6	37.9	6.4
Lynchburg SMSA	52.6	40.6	40.3	47.5	5.1
Newport News-Hampton SMSA	49.1	40.1	39.0	57.0	8.5
Norfolk-Virginia Beach-Portsmouth SMSA	48.3	40.4	39.2	60.1	8.7
Northern Virginia LMA	50.7	41.8	41.5	49.2	5.0
Petersburg SMSA	47.6	41.5	40.5	59.3	7.8
Richmond SMSA	52.4	41.6	41.1	54.0	5.1
Roanoke SMSA	52.2	39.4	38.6	53.7	7.1
Eight LMAs	50.6	39.9	39.2	52.3	6.8
Women as percent in entire State	50.6	39.8	39.0	53.5	7.2

Source: State of Virginia, Labor Market Information for Affirmative Action Programs (1977). Condensed from pp. 1-14.

Montgomery Ward & Company, Giant Food, Inc., and Holly Farms Poultry Industries, Inc.²²

Occupations of Women

In 1977, of all women who were employed in Virginia, 7.1 percent were managers and administrators. This represented almost double their percentage in 1970, which was 3.6 percent.²³ As Table 2.3 indicates, no other occupation showed such dramatic change in the 7-year period. For the most part, however, the employment status of women has remained relatively unchanged despite some gains; they are still concentrated in clerical, service, operative, and those professional and technical jobs that have traditionally been associated with female workers, such as nursing and teaching.

In 1977, of all women who were employed in Virginia, over one-third (33.9 percent) were clerical workers.²⁴ Statistics displayed in Table 2.3 show that the percentage of women employed in this occupation has increased steadily since World War II. And indications are that job opportunities for women in Virginia in this occupation in the 1980s will continue to attract a substantial portion of female job seekers, as shown in Table 2.4. In fact, Table 2.3 shows that among the 20 occupations with the expected largest number of job openings until 1985, secretarial and other 'traditional' occupations for women predominate.

The Virginia Employment Commission estimates that the applications they receive represent about 75 percent of all jobseekers in the State at any given time.²⁵ Table 2.5 shows the total a number of applications received in the public employment agencies, located throughout Virginia, on February 28, 1978, and the percent of the total applications that were filed by women for each of the occupational groups.

Table 2.3 shows that in 1977, women were 17 percent of professional and technical workers and 7.1 percent of managers and administrators employed in Virginia—a combined total of 24.1 percent of all employed female workers. Table 2.5 indicates that in February 1978, women represented 42.2 percent of the applicants for professional, technical, and managerial positions processed by State employment agencies in Virginia. Thus while more than 40

percent of women applied for such positions in February 1978, only 24 percent held such jobs in 1977. Table 2.4 also shows that women were the majority of applicants for clerical and sales work, service jobs, and other jobs generally associated with low income.

Income

A 1976 survey conducted by the U.S. Department of Labor showed that working women in Virginia were clustered at the lower income range.²⁶ (See Table 2.6) Sixty-one percent had incomes less than \$6,000 a year; 14 percent were between \$6,000 to \$7,999 a year; and 10 percent were between \$8,000 and \$9,999 annually. The percentages, respectively, for men in Virginia in 1976 were 28 percent, 10 percent, and 10 percent. Eighty-five percent of the women employed in Virginia in 1975 had incomes under \$10,000 a year, compared to their male counterparts, only 38 percent of whom had incomes less than \$10,000 a year.²⁷

The same survey also found that 14 percent of the women had incomes between \$10,000 and \$19,999 a year, compared to 37 percent of the men. One percent of women had incomes of \$20,000 a year or more, compared to 15 percent of the men.

Income and Education

Of women in Virginia who were 25 years of age and over in 1975, 21 percent attended 8 years of school, 52 percent attended up to 4 years of school, and 28 percent had attended 1 or more years of college.²⁸ In 1975, 23 percent of men 25 years of age or older had attended up to 8 years of school, 42 percent attended up to 4 years of high school, and 35 percent had attended college.²⁹

For women who obtained only an elementary education, 78 percent received income of \$4,000 a year in 1975. Only 4 percent received an income of \$10,000 or more. On the other hand, of men with an elementary education, only 20 percent received an income less than \$4,000 a year, while 38 percent received \$10,000 or more.³⁰

Of women with a high school education, 40 percent received an income of \$4,000 a year, compared to only 9 percent of the men who had completed high school. Only 14 percent of women

²² Ibid.

²³ *Report on Women in Virginia*, p. 9.

²⁴ Ibid.

²⁵ *Labor Market Information*, p. iv.

²⁶ U.S., Department of Labor, Bureau of Labor Statistics, *U.S. Working Women: A Databook 1977*, as cited in *Report on Women in Virginia*, p. 21.

²⁷ Based on *Consumer Income* (June 1978), pp. 99-100.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.