Uranium Mining in Virginia

Thank you for presenting competing points of view regarding the uranium mining issue that will surely be discussed in the halls of the General Assembly this winter.

Mr. Whittington W. Clement's article and perspective from Hunton & Williams LLP, whose client is Virginia Uranium Inc., does not give me much peace of mind. ("Another View of Virginia's History of Potential Uranium Mining," *Virginia Lawyer*, October 2011).

Anyone who highlights the "environmental benefits" from nuclear power is overlooking the fact that there are also huge detriments.

There are no long-term disposal methods for nuclear waste, which remains radioactive for up to 10,000 years.

His comments about the commonwealth's ability to create a regulatory program also give me night sweats. Isn't this the same state that can't even police our waterways to ensure that they remain swimmable and fishable?

His reliance on the federal regulators is also scary.

Are these the same regulators who ensure that mining operations are safe for all? How many times do we have to read the headlines about lapse regulatory inspections and enforcement in mines that are currently up and running?

Uranium mining will produce an abundant source for clean energy through nuclear power, he opines.

None for me thanks.

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Leigh Was a Hero Who Took a Stance

I appreciate your publication of "The Law Givers — Heroes of Virginia Statutory History," by Kent C. Olson, in the October 2011 *Virginia Lawyer*, and note the word "heroes" is apt. As Mr. Olson states, each of the men of whom he writes made significant contributions other than their statutory work, and I would like to remind the bar of but one contribution of one of those men, Benjamin Watkins Leigh, by way of his refusal to take the oath to suppress dueling. The legislature had recently enacted a statute that any person elected or appointed to office had to take an oath that he had never engaged in dueling and would not in the future engage in dueling as a prerequisite to entering office.

The Supreme Court of Appeals determined that attorneys at law, being "officers" of the court, were "officers" within the meaning of this act, and could not practice before it unless they first took this oath, in addition to the usual oaths. Mr. Leigh objected in principle to taking such an oath, and formally moved to be admitted without taking it. His motion and the Court's ruling is fully reported at *Leigh's Case*, 15 Va. (1 Munf.) 468 (1810).

First, Leigh argued that attorneys at law were not "officers" as a matter of statutory construction, for they were neither appointed nor elected, but hired by their clients. Next, he argued against the policy of the law, and pointed out that if the government could make a man swear an oath he had never engaged in a duel as a condition of practicing law, it could force virtually any man engaging in any profession or business to answer its questions regarding virtually any crime. The law created essentially, he argued, a political test, similar to the religious tests of the government the colonists had rebelled against.

Finally, he argued the law was against the spirit of the Constitution — "[B]ecause I hold it to be at war, *at least, with the spirit of the Constitution;* withal, because I abhor rash oaths of all sorts, I do utterly loath the taking of this oath, and feel myself bound by my honour as a gentleman, and my duty as a citizen, to resist the imposition of it to the uttermost of my power." *Id.* at 478. Judges Roane and Fleming ruled in his favor, allowing him to be admitted without taking the oath, but Judge Tucker dissented.

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