

## **Commission to Examine Racial Inequity in Virginia Law**

**October 23, 2019**

### **Library of Virginia**

#### **I. Call to Order by the Chair**

- Commissioners Present:
  1. Hon. Jerrauld Jones
  2. Hon. Birdie Jamison
  3. Carla Jackson
  4. Leslie Chamber Mehta
  5. Cynthia Hudson
  6. Hon. Mike Herring
  7. Andy Block
  8. Hank Chambers
  9. Jill Hanken

#### **II. Public Comment**

- No public comment was received.

#### **III. Administrative Items**

- The October 1, 2019 Meeting Minutes were duly adopted.

#### **IV. Remarks by Mr. Mike Strom, Virginia State Archivist**

There are three units within the Government Records Services Division:

1. Records management – helps government agencies throughout the state, including state agencies, the counties and the localities manage their records by implementing the appropriate retention schedules.
2. State records – responsible for preserving, processing and providing access to records from state agencies deemed to have permanent or historical value.
3. Local records – also called the (Circuit Court Records Preservation project, CCRP) is responsible for preserving, processing and providing access to records from Virginia’s local courthouses.

#### State Records

Presented two records groups that the library thought might help to the commission’s work. Those records are from the Virginia Code Commission and the Virginia General Assembly.

#### Virginia Code Commission:

- Register of Regulation records, 1937-2016, of the Virginia Code Commission contain information relating to the development, review, and approval of published and unpublished regulations that form the Virginia Administrative Code.
- The Virginia Administrative Code has the full force of law and is created by any state agency that is permitted to create regulations and must follow the procedures put forth in the Virginia Administrative Process Act. These records may include notices of intent, drafts of proposed regulations, economic impact analysis, request for comments, the final regulations, meeting notices, forms, errata notices, documents both included and cited as precedent, emergency action material generated documents and other technical support material generated during the process to develop and approve the regulation. (211 feet of records)
- The records of the Commission to Revise, Codify, and Index the General Statute Laws, 1846-1918, include printed sections of the code with annotations, introduction to the work of the Commission, with a history of legislative activity within Virginia. Also included is a listing of code sections with indications as to the then current status of the section, as well as research materials. (89 volumes)
- Minutes and related attachments documenting the meetings, activities, discussions, policy decisions, and recommendations of the Virginia Code Commission. In addition to minutes, also includes correspondence, memoranda, reports, resolutions, and copies of regulations, legislation and statutes. (9 feet)

#### Virginia General Assembly (acts and enrolled bills):

- This series is composed of Acts of the General Assembly and Joint Resolutions proposing amendments to the Constitution of Virginia. These acts are commonly referred to as enrolled bills. The records range from 1776 to 2008 (51 feet).
- Original and engrossed bills, resolutions and joint resolutions, and related attachments of the House of Delegates, 1776-2017. These records include original bills introduced by members of the House of Delegates; engrossed bills passed by the Senate and communicated to the House for action; and original bills continued from previous sessions. This series also includes resolutions proposed by the House of Delegates and joint resolutions acted on by both houses of the General Assembly. The records show: title and date of the bill, resolution or joint resolution; number; committee to which it was referred; chief patron with signature; additional patrons; and the text. Related attachments may include a copy of the roll call vote; a manuscript copy of amendments; a copy of the committee vote; and, in

later accessions, a computer printout summarizing the status of the bill through the session. May also include reports, petitions, amendments, communications, nominations, oaths and duplicate bills. (over 1000 feet of records)

- Original bills, resolutions and joint resolutions and related attachments of the Virginia Senate, 1879-2018. These records include original bills introduced by members of the Senate; bills passed by the House of Delegates and communicated to the Senate for action (engrossed bills); and original bills continued from previous sessions. The records also contain resolutions proposed by the Senate and joint resolutions acted on by both houses of the General Assembly. The records show: title and date of the bill, resolutions or joint resolution; bill or resolution number; committee to which it is referred; chief patron and his signature; additional patrons; and the text of the bill or resolution. Related attachments may include a copy of engrossed bill; roll call vote, a manuscript copy of amendments; a copy of the committee vote; reports; petitions; amendments; communications; nominations; oaths; duplicate bills; or a printout summarizing the status of the bill through the session.

Access to Executive Documents dates back to the 1950s.

### Local Records

The Local Records Program is responsible for preserving and providing access to historical records stored in Virginia's local courthouses. The vast majority of the records are court suits, civil and criminal that date back to the 1600's. They contain historical evidence of racial inequity in the law. Greg Crawford manages the Local Records Program and shared some examples of inequity.

- Enslaved people accused of capital crimes were heard in a separate court known as Oyer and Terminer. Purpose was to come to a verdict quickly. No jury of their peers.
- African Americans who were enslaved (but who were actually freed whether by birth or by payment) could sue for their freedom in Virginia. However, the legal deck was stacked against them. The courts instructed jurors hearing freedom suits must presume that all African Americans are slaves.
- Racial Integrity Act. Purpose was to prevent people of mixed racial heritage from intermarrying with white people. Local Records collection has correspondence sent to clerks from the author of the act and head of the State Health Board Walter Plecker documenting his efforts to enforce the act. Recent lawsuits against two clerks that denied marriage licenses are legacy of this act.

[Virginia Untold](#) project - Over 15,000 legal records have been scanned and are available on Virginia Untold. These records tell the stories of thousands of African Americans who experienced racial inequality.

Library stated that they would do their best to assist with whatever research questions the Commission has going forward.

## V. **Subject-Matter Committee Reports**

Commissioners discussed whether it was possible to select keywords that have been used to discriminate or if Acts of Assembly should be reviewed individually. There is a concern that establishing a “cure-all” approach may jeopardize current legislation that is no longer racist.

Commissioners gave their subject-matter committee reports in which they suggested chapters that ought to be repealed and noted those that required more research before a final decision on repeal could be recommended.

### 1. **Transportation Committee (Herring & Hudson)**

- a. Y1906-C91
  - i. Recommendation: repeal
- b. Y1959-C49
  - i. Recommendation: repeal
- c. Y1901-C454
  - i. Recommendation: repeal
- d. Y1901-C554
  - i. Recommendation: repeal
- e. Y1901-C463
  - i. Recommendation: repeal
- f. Y1901-C287
  - i. Recommendation: further review
- g. Y1959-C27
  - i. Recommendation: further review

### 2. **Voting (Hanken & Herring)**

Commissioners discussed the general use of the term “freeholder” and how it can be used in various context. The term seems to be always be used in a derogatory or discriminatory fashion. However, the Commissioners aren’t sure if it is appropriate to apply a blanket rule to repeal chapters/sections where the term is used.

- a. Y1916-C186.35
  - i. Sustained – leave as is

- b. Y1916-C196.1
  - i. Recommendation: further review
- c. Y1908-C191
  - i. Recommendation: Repeal
- d. 1950-C224
  - i. Recommendation: Repeal
- e. 1950-C216
  - i. Recommendation: repeal
- f. Index – reform
  - i. Recommendation: repeal
- g. 1909-C27
  - i. Recommendation: repeal
- h. 1906-C26
  - i. Recommendation: repeal
- i. 1906-C25
  - i. Recommendation: further review
- j. 1908-C130
  - i. Recommendation: repeal
- k. 1908-C162
  - i. Recommendation: repeal
- l. Y1908-C174
  - i. Recommendation: repeal
- m. Y1908-C173
  - i. Recommendation: repeal
- n. Y1908-C246
  - i. Recommendation: repeal
- o. Y1908-C283
  - i. Recommendation: Repeal
- p. Y1908-C279
  - i. Recommendation: Repeal
- q. Y1908-C283
  - i. Recommendation: Repeal
- r. Y1908-C302
  - i. Recommendation: further review

Recommendation: Andy Block requested that the law student-researchers add all the statutes on the drive (we can have a 5-word description on each).

### **3. Housing (Block, Jamison & Jones)**

- a. Y1901-C300
  - i. Recommendation: repeal
- b. Y1913-C157
  - i. Recommendation: repeal
- c. Y1960-C490

- i. Recommendation: further review

## **VI. Process Discussion**

Commissioners discussed the outline for the Commission report due in November.

Suggested report outline is as follows:

- ➔ Executive summary that speaks to each section
- ➔ Introduction to the section
  - Paragraph one: context broadly
  - Paragraph two: speaks to what was encountered in the selected sections

General Notes:

- Don't be neutral in our descriptions; speak honestly in our reports
- Deadline: Nov. 1 – section paragraphs// submitted to Andy

Commissioners also asked if we could follow up on Prof. Ayers presentation from the first meeting to get a list of reading materials.

## **VII. Adjournment**