



James H. Price, Governor of Virginia, 1938–1942. From the 1939 World's Fair Photograph Collection, Library of Virginia.

Since 1776 all Virginia governors have had clemency power. The Constitution of 1776, reflecting the fear of a strong executive, required the governor to consult with the Council of State on clemency matters. The constitution denied Virginia's governor, one of the weakest state executives, any power of prerogative. Therefore, with regard to clemency, "[the Governor] shall, with the advice of the Council of State, have the power of granting reprieves or pardons, except where the prosecution shall have been carried on by the House of Delegates, or the law shall otherwise particularly direct; in which cases, no reprieve or pardon shall be granted, but by the resolve of the House of Delegates" [1776 Virginia Constitution, paragraph 9]. In other words, the governor could not administer clemency without the approval of the Council of State.

In a major step toward creating an independent executive, the Constitutional Convention of 1829–1830 voted to elect the governor by joint vote of the General Assembly and made the

Council of State an advisory body only. The 1851 Constitution abolished the Council of State and further strengthened the clemency powers of the governor. The new document placed two new restrictions on the Office of the Governor related to clemency. Clemency could be granted only after conviction, preventing prospective pardons, and the governor was required to inform the General Assembly when he exercised clemency powers. The 1870 Constitution added only one change to the governor's powers, the ability to "remove political disabilities [or restoration of rights] consequent upon conviction for offenses committed prior or subsequent to the adoption" of the Constitution [A.E. Dick Howard, *Commentaries on the Constitution of Virginia*, 2: 643].

In 1928, new amendments were made to the fifth constitution of the commonwealth (adopted in 1902) at the suggestion of the Prentis Commission. The changes allowed the General Assembly to create a pardon board of no more than three members, serving at the governor's pleasure, and vested with complete authority to issue clemency. This change, part of a nationwide reform movement, was adopted in an effort to prevent abuse of pardoning power by state executives. This 1928 action was not self-executing, so the governor continued to have exclusive clemency authority until 1944. A constitutional amendment, adopted in April 1945, finally invested such a board with full authority to grant pardons and reprieves, thereby creating the Pardons and Reprieves Board within the Executive Department. The board was short-lived. After a brief debate over the partial or complete clemency powers of the board, in 1948 the General Assembly dissolved the Pardons and Reprieves Board at the recommendation of Governor William M. Tuck. Since that time, the governor has enjoyed full and exclusive clemency powers. Except for the addition and deletion of the Pardons and Reprieves Board, and a small change as to when the governor is required to report to the General Assembly, the clemency powers of Virginia's governor have remained the same for over one hundred and thirty years.

WHAT TYPES OF RECORDS WILL A RESEARCHER FIND?

Records that make up appeals for clemency differ by time period, governor, and applicant. Until recent years (within the last fifty), standardization did not exist in this process, so there was not an official application to be filled out and returned to the governor's office. Modern appeals for clemency follow a highly prescribed process; in earlier years, a somewhat more informal approach was used. This began to change around 1900, when pre-printed forms were introduced. Even into the late 1940s, the application process still mostly involved correspondence. Later twentieth-century records can be quite voluminous with legal briefs, motion filings, trial transcripts, completed forms, and the like.

Letters are the record type most often found in the materials related to clemency. These letters can originate from a host of sources. Family members may write to the governor appealing for leniency. Letters may also appear from legislators, friends, local officials, or community members. In some cases, the records include a transcript of the trial of the individual. Researchers may also find signed petitions or sworn statements from jurors, members of the community, and businessmen's groups. More modern records (post-1930) may contain conduct reports from the penitentiary, prison farm, or camp.

Clemency Records

All correspondence in the governor's papers is not necessarily in favor of clemency. Some letters include vehement protests against any reduction in the sentence imposed by judge or jury. Just as one can find correspondence listing the virtues of the condemned, one can also find letters and telegrams listing his or her negative characteristics.

The records cited above can be useful in a number of ways. They provide documentation of an application for clemency and the government's action on that appeal. The materials can also augment aspects of state, local, and social history where records may be lacking. For instance, trial transcripts found in the governor's papers related to an appeal may provide documentation of court proceedings for a burned record county/city. Records related to clemency can provide insight into the lives of often-overlooked Virginians: African Americans and other minorities, women, the poor, and the mentally ill. Clemency materials may supplement the historical record of other state agencies and institutions, such as the state penitentiary or Virginia's prison farm system.

MAJOR RECORD-CREATING AGENCIES

Office of the Governor

Applications and petitions for pardons are exclusively found in the governor's papers until about 1866. The governor's papers are indexed by the Secretary of the Commonwealth's executive journal (beginning in 1832). Prior to 1832, the Council of State Journals can be used to identify a date of action. Typically, petitions and applications are filed by the date of executive action.

Secretary of the Commonwealth

Created in 1832, the Secretary of the Commonwealth serves as the ex officio secretary of the governor, as custodian of many official state records, and as keeper of the Greater and Lesser Seals of the Commonwealth. The agency maintains the executive journal, a log of official actions taken by and material presented to the governor. The executive journal serves as an index to the official papers of the governor. Beginning in about 1866, the executive papers of the Secretary of the Commonwealth contain most of the information on clemency appeals.

Department of Corrections

Records created by the Department of Corrections sometimes list information on pardons, paroles, and commutations. Prison registers for various years include information on clemency granted by the executive.

ACCESS AND AVAILABILITY OF RECORDS

Not all records related to pardons survive. The majority of the records have survived and many can be found in the archival collections of the Library of Virginia. When researching, remember that your search may not yield the records you seek.

Due to the sensitive nature of some materials, the creating agencies have placed restrictions on public access to some records. *Researchers may be required to get a letter of permission from the creating agency to view restricted records.* The original letter of permission must be submitted to the Library of Virginia where it will be kept on file. The archivist on duty will inform you if a letter is needed in order to view materials. In some cases, archives staff may copy the sought-after records if they are housed in a bound volume or larger group of records to avoid compromising the other records contained in that volume or box.

Below are addresses of some of the creating agencies from whom, in some cases, you must be granted permission:

Secretary of the Commonwealth

Anita Rimler
830 East Main Street, 14th Floor
Richmond, Virginia 23219
Phone: 804-786-2441
socmail@gov.state.va.us

Office of the Governor

Governor Mark R. Warner
State Capitol, 3rd Floor
Richmond, Virginia 23219
Phone: (804) 786-2211

Department of Corrections

Gene M. Johnson, Director
P.O. Box 26963
Richmond, VA 23261-6963
(804) 674-3000
docmail@vadoc.state.va.us

ISSUES TO CONSIDER WHEN RESEARCHING

Researchers need to consider the sometimes disparate processes of creating these records and the changes in the structure of state government over time. Such issues will directly impact the arrangement and organization of clemency information. *The following issues are neither hard-and-fast rules, nor do they cover every scenario;* instead, they are several topics to consider when researching a petition for clemency.

Prior to the creation of the Secretary of the Commonwealth position, there seems to be no indexing of rejected pardon applications. In some cases, rejected pardons show up in “Rejected Claims” folders within the governors’ papers. However, in some instances in the indexing, the word “pardon” seems to be used when clemency is granted and the word “petition” used when an appeal for clemency is rejected.

The words *pardon*, *reprieve*, and *petition* are used interchangeably.

The subject indexing of these records (Council of State Journal, Secretary of the Commonwealth’s Journal, and the inventories of governor’s papers) is not consistent. Within the various indexes, entries are sometimes listed under “P” for “pardon” or “petition,” by the last name of the applicant, under “S” for “slave” (for example, “slave Ned—rejected”). Slaves are sometimes listed under their owner’s name. Pardons/commutations/reprieves may also be listed alphabetically by type in the Secretary of the Commonwealth’s Journal (for example, absolute pardons under “A,” conditional pardons under “C,” reprieves under “R,” etc.).

Some governors’ papers have pardons separated by month within a year or in a separate folder at the end of the year; even when pardons are separated, check the chronological files for more information. Sometimes other documentation can be found that has not been separated.

After 1866, most records related to granted executive clemency can be found in the executive papers of the Secretary of the Commonwealth. However, it is possible to find some related correspondence in the governor’s letters. Persons looking for all materials related to clemency should check both record groups. For modern governor’s records (approximately 25 years ago to present), if clemency was granted, papers are located in the Secretary of the Commonwealth’s records. If clemency was refused, materials can be found in the governor’s papers.

Between 1945–1948, when Virginia has a Pardons and Reprieves Board, additional materials may exist in the governor’s papers under that subject heading (specifically Governors Byrd, Darden, and Tuck).

After the Civil War, until about 1900, governor’s papers are lacking in substance. Materials may be found, but the overall quantity during this time period is small.

Based on a survey of the records available, the following process is suggested when researching a pardon/petition for clemency. Record retention and organization varies with each gubernatorial administration and agency. *None of the procedures outlined are to be considered absolute. Other procedures may be necessary, but this is the most common procedure.*

Check Council of State Journal or Secretary of the Commonwealth’s Executive Journal for the appropriate time period.

Before 1866 (with date from the Council Journal or Secretary’s Executive Journal), check Governor’s Papers in the following manner:

Check for separate pardon folders (Sometimes arranged by year, for example, pardons 1851, by month; pardons August 1823, or at the end of four-year gubernatorial term). *Not all governors have separate pardon folders.* In these cases, begin by investigating the folder that corresponds to the date of action.

Check folder(s) with range for exact date of action (date from the Council of State Journals or Secretary of Commonwealth’s Journal).

Check “No Date” and “Undated” folders.

Check “Rejected Claims” folders for refused pardons.

After 1866 (date from the Council of State Journals or Secretary of Commonwealth’s Journal), check the Secretary of the Commonwealth’s Executive Papers. The date from Secretary’s Journal should match the date of the Secretary’s Executive Papers.

Clemency Records

RECORDS

1776–1831

Council of State (Journals)	July 12, 1776–November 29, 1791	J87 V64
	July 12, 1776–January 15, 1852	Miscellaneous Reels 2981-2998.
Governor's Papers	Patrick Henry–John Floyd	Available in the Archives Research Room.

1832–1865

Council of State (Journals)	July 12, 1776–January 15, 1852	Miscellaneous Reels 2981-2998.
Executive Journals (Secretary of the Commonwealth)	1832–1865	Available in the Archives Research Room.
Governor's Papers	John Floyd–Francis H. Pierpont	Available in the Archives Research Room.
Reports to General Assembly	1852–present	See below.

1866–present

Secretary of the Commonwealth Executive Journals*	1866–1981, bound 1982–2002, loose	Available in the Archives Research Room.
Executive Papers	1866–1982 (after 1982, executive papers are combined with Executive Journals under the heading “Executive Journals.”)	Available in the Archives Research Room.
Pardon Registers	1883–1907	Available in the Archives Research Room.
Registers of Pardons Refused	1894–1905	Available in the Archives Research Room.
Pardons, Requisitions, and Commutations card file	1922–1926	Available in the Archives Research Room.
Governor's Papers*	Francis H. Pierpont– James Gilmore	Available in the Archives Research Room.
Department of Corrections Prisoner Registers*	1865–1980	Available in the Archives Research Room.
Reports to General Assembly	1852–present	See below.

*indicates that some records are restricted

REPORTS TO THE GENERAL ASSEMBLY

The new constitution of 1851 required the governor to report to the General Assembly, at each session, any pardons, commutations, respites, and reprieves granted by the executive. These annual reports are found as House or Senate documents within the appropriate journal through 1936. After 1938, each report is cataloged separately. Not all reports are extant, and they do not contain information on clemency refused. The following list gives the location of these reports and the dates covered.

These communications regarding clemency usually contain a paragraph or two giving the name of the convicted, date and place of conviction, crime, sentence imposed, and reason for and date of clemency. In many cases between 1852 and 1880, free or slave status and race are noted. Around the mid-twentieth century, the number of pardons decreases significantly, and the most common type of clemency extended is the removal of political disabilities (restoration of rights). In the latter two decades of the last century, information is written in narrative, paragraph form only for those instances where pardons are granted. Information on those receiving removal of their political disabilities is limited to name, date and place of conviction, crime, and date of clemency; no narrative is given.

1852

House Document 74, Communication Containing Gov. Johnson's Reasons for Commuting Jordan Hatcher's Sentence, 1852 in *House Documents, 1852, Nos. 21–89*. [J87 V6 1852 nos. 21–89]

c. 1852–1853

Document 65 in *House Documents, 1852–53, Nos. 22–79*. [J87 V6 1852/53 nos. 22–79]

c. 1853–1854

Report on pp. 170–175 of *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Monday December 5, 1853*. [J87 V6 1853/54]

c. 1854–1855

Document 4 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Monday December 3, 1855*. [J87 V6 1855/56]

c. 1856–1857

Report on pp. 140–154 of *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Monday December 7, 1857*. [J87 V6 1857/58]

c. 1858–1859

Document 15 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Monday December 5, 1859*. [J87 V6 1859/60]

1861–1862

Senate Document 13 in *Journal of the Senate of the Commonwealth of Virginia (1862–1863)*. [Film 332, Reel 7]

1863

Senate Document 5 in *Journal of the Senate of the Commonwealth of Virginia (1863–1864)*. [Film 332, Reel 7]

1864

House Document 35 in *Journal of the House of Delegates (1864–1865)*. [Film 331, Reel 29]

1 January 1866–11 December 1866

Senate Document 14 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Monday, the Third Day of December 1866*. [J87 V9 1866/67]

Clemency Records

1870

House Document 8 in *Journal of the House of Delegates of the State of Virginia for the Session of 1870–71*. [J87 V9 1870/71]
Senate Document 5 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Wednesday, the Seventh Day of December 1870*. [J87 V9 1870/71]

1871

Senate Document 18 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Wednesday, the Sixth Day of December 1871*. [J87 V9 1871/72]

1872

Senate Document 20 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Wednesday, the Fourth Day of December 1872*. [J87 V9 1872/73]

1873

House Document 2 in *Journal of the House of Delegates of the State of Virginia for the Session of 1874*. [J87 V9 1874]

1874

House Document 8 in *Journal of the House of Delegates of the State of Virginia for the Session of 1874–5*. [J87 V9 1874/75]
Senate Document 12 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, on Wednesday, the Second Day of December 1874*. [J87 V9 1874/75]

1876

House Document 5 in *Journal of the House of Delegates of the State of Virginia for the Session of 1876–77*. [J87 V9 1876/77]
Senate Document 10 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday the 6th Day of December, 1876*. [J87 V9 1876/77]

1877

House Document 3 in *Journal of the House of Delegates of the State of Virginia for the Session of 1877–8*. [J87 V9 1877/78]
Senate Document 11 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond, Wednesday, December 5, 1877*. [J87 V9 1877/78]

1878

House Document 2 in *Journal of the House of Delegates of the State of Virginia for the Session of 1878–9*. [J87 V9 1878/79]
Senate Document 1 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, December 4, 1878*. [J87 V9 1878/79]

c. January 1879–November 1879

House Document 2 in *Journal of the House of Delegates of the State of Virginia for the Session of 1879–80*. [J87 V9 1879/80]
Senate Document 1 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, December 3, 1879*. [J87 V9 1879/80]

1 January 1882–1 October 1883

House Documents 4 in *Journal of the House of Delegates of the State of Virginia for the Session of 1883–4*. [J87 V9 1883/84]

1 October 1883–15 December 1885

House Document 3 in *Journal of the House of Delegates of the State of Virginia for the Session of 1885–86*. [J87 V9 1885/86]

1 January 1886–31 December 1887

House Document 8 in *Journal of the House of Delegates of the State of Virginia for the Session of 1887–88*. [J87 V9 1887/88]

1 January 1890–1 January 1892

House Document 5 in *Journal of the House of Delegates of the State of Virginia for the Session of 1891–92*. [J87 V9 1891/92]

c. 1892–c. December 1893

Senate Document 4 in *Journal of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, December 6, 1893*. [J87 V9 1893/94]

1 January 1894–1 January 1896

House Document 2 in *Journal of the House of Delegates of the State of Virginia for the Session of 1895–96*. [J87 V9 1895/96]

1 January 1896–1 January 1898

House Document 3 in *Journal of the House of Delegates of the State of Virginia for the Session of 1897–98*. [J87 V9 1897/98]

1 January 1898–1 January 1900

House Document 3 in *Journal of the House of Delegates of the State of Virginia for the Session of 1899–1900*. [J87 V9 1899/1900]

1 January 1900–1 January 1901

Senate Document 2 in *Journal of the Senate of the Commonwealth of Virginia Begun and Held at the Capitol in the City of Richmond, on Wednesday, January 23, 1901*. [J87 V9 1901b]

1 January 1901–31 December 1901

House Document 2 in *Journal of the House of Delegates of the State of Virginia for the Session of 1901–1902*. [J87 V9 1901/02]

1 January 1902–31 December 1902

House Document 1 in *Journal of the House of Delegates for the State of Virginia for the Extra Session Beginning July 15, 1902*. [J87 V9 1902/03/04]

1 January 1903–31 December 1903

Senate Document 2 in *Journal of the Senate of the Commonwealth of Virginia Begun and Held at the Capitol in the City of Richmond, on Wednesday, January 13, 1904*. [J87 V9 1904]

1 January 1904–31 December 1905

House Document 4 in *Journal of the House of Delegates of the State of Virginia for the Session of 1906*. [J87 V9 1906]

1 January 1906–31 December 1907

Senate Document 3 in *Journal of the Senate of the Commonwealth of Virginia Begun and Held at the Capitol in the City of Richmond on Wednesday January 8, 1908*. [J87 V9 1908]

January 1909–January 1910

Senate Document 5 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 12, 1910*. [J87 V9 1910]

1 February 1910–1 January 1912

House Document 9 in *Journal of the House of Delegates of Virginia, Session Which Commenced at the State Capitol on Wednesday, January 10, 1912*. [J87 V9 1912]

1 February 1912–31 January 1914

Senate Document 5 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 14, 1914*. [J87 V9 1914]

1 February 1914–31 January 1916

Senate Document 6 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 12, 1916*. [J87 V9 1916]

1 February 1916–31 January 1918

House Document 9 in *Journal of the House of Delegates of Virginia, Session Which Commenced at the State Capitol on Wednesday, January 9, 1918*. [J87 V9 1918]

1 February 1918–31 January 1920

House Document 6 in *Journal of the House of Delegates of Virginia, Session Which Commenced at the State Capitol on Wednesday, January 14, 1920*. [J87 V9 1920]

1 February 1920–31 January 1922

Senate Document 13 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 11, 1922*. [J87 V9 1922]

1 February 1922–31 January 1924

Senate Document 8 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 9, 1924*. [J87 V9 1924]

1 February 1924–31 January 1926

House Document 8 in *Journal of the House of Delegates of Virginia, Session Which Commenced at the State Capitol on Wednesday, January 13, 1926*. [J87 V9 1926]

1 February 1926–31 January 1928

House Document 10 in *Journal of the House of Delegates of Virginia, Session Which Commenced at the State Capitol on Wednesday, January 11, 1928*. [J87 V9 1928]

1 February 1929–14 January 1930

Senate Document 9 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 8, 1930*. [J87 V9 1930]

15 January 1930–1 January 1932

Senate Document 8 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 13, 1932*. [J87 V9 1932]

15 January 1932–16 January 1934

Senate Document 8 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 10, 1934*. [J87 V9 1933–34]

17 January 1934–17 January 1936

Senate Document 9 in *Journal of the Senate of the Commonwealth of Virginia, Begun and Held at the Capitol in the City of Richmond on Wednesday, January 8, 1936*. [J87 V9 1936]

18 January 1936–18 January 1938

House Document 12 in *House Documents 1938*. [J87 V9 1938]

1938 to the present

List of Pardons, Commutations and Other Forms of Clemency. [HV7296 A3]

Beginning in 1938, each report has been cataloged separately.

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