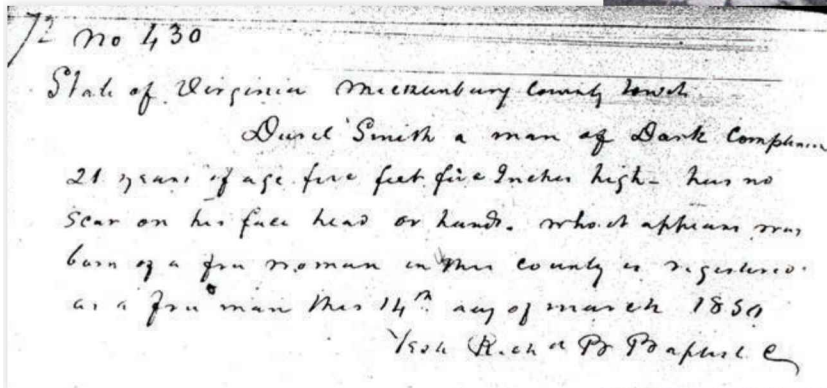


Free Negro Registers in Virginia

Leslie Anderson



Entry for Durel Smith in Mecklenburg County's Register of Free Negroes, 1850.

Reuben Brown (registered 21 March 1844), wife Susan W. Harris Brown (registered 20 July 1848), and their children, including sons Braxton and Powhatan (registered 18 October 1860). The Brown family left Charles City for Ohio before the start of the Civil War. Courtesy of the Richard M. Bowman Center for Local History, Charles City, Virginia.

Leslie Anderson, a native Virginian, is a librarian at Alexandria Library, Local History/Special Collections Branch. Named a Virginia Humanities Scholar in 2020, she won the 2013 NGS Family History Writing Contest. Her publications include *Virginia Slave Births Index, 1853-1865* (project editor), *Alexandria* (co-author), and articles in the *Magazine of Virginia Genealogy*. Leslie's genealogical education includes GRIP, IGHR, and Gen-Fed. She blogs at *1st US Colored Cavalry: Private Lives, Public Records* (<https://1stuscoloredcavalry.wordpress.com>).

Durel Smith, "a man of Dark Complexion... who it appears was born of a free woman in this county... registered as a free man" on 14 March 1850 in Mecklenburg County, Virginia. The entry describes him as twenty-one years old and five feet five, with "no scar on his face head or hands."¹ Durel was born in Virginia in 1832-1835 and had seven children with Tabitha Bugg. A farm laborer, he registered four times in Mecklenburg County between 1850 and 1863.²

The under-utilized free Negro registers available for many Virginia counties and some independent cities provide valuable information for genealogists researching Black and White ancestors.³ This article describes the registers in the context of restrictive laws and provides methods for locating them.

Websites cited in this article were viewed on 16 September 2020.

1. Mecklenburg County [Virginia] Register of Free Negroes 2 (1841-1865), p. 72, entry 430, Durel Smith, 14 March 1850; Clerk of Court's Office, Boydton.

2. Leslie Elaine Anderson, "Tabitha (Bugg) George Smith of Mecklenburg County, Virginia," *National Genealogical Society Quarterly* 103:1 (March 2015), 7, 10-11.

3. The use of the term "free Negro" in pre-Emancipation statutes and legal documents is maintained in this article. The abbreviation "FN" was employed informally, next to a person's name in a list or correspondence. Terms used less frequently were "free black," the abbreviation "FB," and "free people of color."

In 1860, half of the free Black people in the United States lived in the fifteen states where slavery was legal.⁴ There were 58,042 in Virginia, second only to Maryland with 83,942. In Virginia, 30.7 percent of the residents were enslaved; 3.6 percent were free.⁵ The Tidewater region was home to more than half of Virginia's entire population of free Black people.⁶ Urban communities were populated by considerably higher numbers of free Blacks than rural areas.⁷ Fewer lived in western Virginia.⁸

| | 1790 | 1820 | 1840 | 1860 |
|-------------------|---------|-----------|-----------|-----------|
| Free colored..... | 12,866 | 36,875 | 49,841 | 58,042 |
| Slave..... | 292,627 | 425,148 | 448,988 | 490,865 |
| White | 442,117 | 603,381 | 740,968 | 1,047,299 |
| Total..... | 747,610 | 1,065,404 | 1,239,797 | 1,596,206 |

Chart showing the growth in the Black population of Virginia, free and enslaved, based on census figures from 1790 to 1860. John Henderson Russell, *The Free Negro in Virginia, 1619-1865*, 13.

The legal status of free Black Virginians

The colonists who settled Virginia abandoned English common law, which held that a person's legal status of freedom was determined by the father's. Why did they choose instead the principles of ancient Rome where a person's status was determined by the mother's? Simply put, this change was a means to control property and inheritance.⁹

As Virginia's early settlements began to develop, the number of White men greatly outnumbered women of all races. The steady growth in the population of mixed-race offspring presented an opportunity to expand enslaved labor. In 1662 the House of Burgesses enacted a law declaring that a child's status followed the mother's. If she was enslaved, her child was enslaved for life.

4. Joseph C. G. Kennedy, *Population of the United States in 1860* (Washington, DC: Government Printing Office, 1864), vii; "1860 Census: Population of the United States," *United States Census Bureau* (<https://www.census.gov/library/publications/1864/dec/1860a.html> > Introduction).

5. Kennedy, *Population of the United States in 1860*, p. 595; "1860 Census: Population of the United States" (<https://www.census.gov/library/publications/1864/dec/1860a.html> > Recapitulation).

6. John Henderson Russell, *The Free Negro in Virginia, 1619-1865* (Baltimore: Johns Hopkins University, 1913), 13-14.

7. Russell, *The Free Negro in Virginia*, 15.

8. Russell, *The Free Negro in Virginia*, 13.

9. Taunya Lovell Banks, "Dangerous Woman: Elizabeth Key's Freedom Suit—Subjecthood and Racialized Identity in Seventeenth Century Colonial Virginia," *Akron Law Review* 41 (2008), 799-837; Faculty Scholarship, University of Maryland (https://digitalcommons.law.umaryland.edu/fac_pubs/52).

10. William W. Hening, *The Statutes at Large; Being a Collection of All the Laws of Virginia* [1619-1792], vols. 1-13 (Richmond, Philadelphia, and New York: 1809-1823), 2:170.

11. Russell, *The Free Negro in Virginia*, 18-19.

12. Russell, *The Free Negro in Virginia*, 40.

13. Hening, *Statutes*, 4:128, 131.

14. Hening, *Statutes*, 133-134.

15. Russell, *The Free Negro in Virginia*, 88-122

WHEREAS some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free, *Be it therefore enacted and declared by this present grand assembly*, that all children borne in this country shall be held bond or free only according to the condition of the mother.¹⁰

The first Africans in Virginia were bonded with limited terms of servitude, but by 1662, the practice of lifetime slavery had become well-established.¹¹ The law mandated that children born to free Black parents and mixed-race children born to free Black women were free. However, marriage between Black and White people was prohibited, and their children were bound as apprentices to White Virginians for thirty-one years.¹²

Over the next century, the Virginia legislature removed most of the legal rights of free Black people in order to maintain White superiority, control the free Black population, and intimidate the enslaved. A major concern of White Virginians was that free Black people would incite insurrection in the enslaved

population. In 1723, they were prohibited from meeting and their ownership of weapons was curtailed.¹³ Free Black people could no longer vote and were required to pay taxes that were not levied against White Virginians.¹⁴ Numerous restrictive laws followed.¹⁵

There were thriving communities of free Black persons in antebellum Virginia. The best known was Israel Hill near Farmville, the county seat of Prince Edward County. The will of Richard



John A. Robertson and Debra White Beasley unveil a highway marker honoring Israel Hill. Both are descendants of Hercules White, an early Israel Hill resident. Photograph by Edwina Covington, courtesy of Farmville-Prince Edward Historical Society.

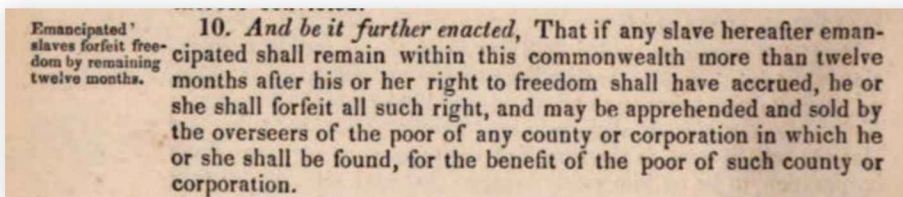
Randolph, Thomas Jefferson's cousin, manumitted ninety people and granted 350 acres for their use. The village was established in 1810, fourteen years after Randolph died, and thrived into the twentieth century.¹⁶

How enslaved Virginians became free

Manumission is the process that legally changed the status of a person from "a condition of slavery... to a status of freedom."¹⁷ Enslaved people in Virginia were manumitted by acts of the legislature and enslavers' wills and deeds of manumission.

The intent of the first law concerning manumission, in 1691, was to discourage its practice by requiring the enslaver to pay for transporting the manumitted person outside the colony.¹⁸ In 1723, enslavers were forbidden to manumit without the license of the governor and council, and then only for meritorious service.¹⁹ There were few manumissions for the next sixty years.²⁰

In 1782, the legislature removed these restrictions, in an act allowing enslavers to manumit enslaved people by will "or any other instrument in writing."²¹ Manumissions began occurring frequently.²² The free Black population rose from about twenty-eight hundred in 1782²³ to nearly thirteen thousand in 1790 and twenty thousand in 1800.²⁴



"An act to amend the several laws concerning slaves," 25 January 1806. Samuel Shepherd, *Statutes at Large of Virginia*, 3:252.

16. Melvin Patrick Ely, *Israel on the Appomattox: A Southern Experiment in Black Freedom from the 1790s Through the Civil War* (New York: Vintage Books, 2005).

17. Russell, *The Free Negro in Virginia*, 42.

18. Hening, *Statutes*, 3:87.

19. Hening, *Statutes*, 4:132.

20. Russell, *The Free Negro in Virginia*, 53.

21. Hening, *Statutes*, 11:39-40.

22. Russell, *The Free Negro in Virginia*, 63.

23. Russell, *The Free Negro in Virginia*, 11.

24. Russell, *The Free Negro in Virginia*, 61.

25. Samuel Shepherd, *Statutes at Large of Virginia, from October Session 1792, to December Session 1806... Being a Continuation of Hening*, vols. 1-3 (Richmond: 1835-1836), 3:252.

26. Russell, *The Free Negro in Virginia*, 77.

27. "A large part" of the 660 petitions concerning free Negroes in Virginia Memory's Legislative Petitions Digital Collection "relate to requests by former slaves to remain in the Commonwealth." See "A Guide to the Legislative Petitions of the General Assembly, 1776-1865, A Collection in the Library of Virginia, Accession 36121," finding aid (2008), *Virginia Heritage* (<https://vaheritage.org>) > "Guide to the Legislative Petitions of the General Assembly").

28. Ted Maris-Wolf, *Family Bonds: Free Blacks and Re-enslavement Law in Antebellum Virginia* (Chapel Hill: University of North Carolina Press, 2015), 21.

29. Russell, *The Free Negro in Virginia*, 77.

30. Russell, *The Free Negro in Virginia*, 80.

31. Russell, *The Free Negro in Virginia*, 79-82.

In 1806, the General Assembly passed a law that required people emancipated after 1 May to leave the Commonwealth within twelve months. If they did not, they could be sold into slavery by the overseers of the poor.²⁵ Removal was not always enforced, but manumissions declined.²⁶ Dreading the prospect of leaving enslaved relatives behind, hundreds of free Black people petitioned the General Assembly to remain in Virginia.²⁷ Over one hundred even petitioned for re-enslavement, from 1854 to 1865.²⁸

Many free Black Virginians who purchased the freedom of relatives decided not to manumit them since they would then be forced to leave the state.²⁹ This motivation is reflected in the 1810 census, which shows free Black heads of household holding others in bondage.

Before 1830, acts of manumission were more common in the rural counties. Manumission was typically initiated by the enslaver, "in consideration of good deeds" such as saving the life of a White person or preventing serious injury. In other scenarios, a free Black relative or friend paid a fee and then manumitted an individual, or a White person negotiated a purchase with an enslaver and accepted payment for the transaction.

From 1820 to 1830, the increase in the free Black population in Virginia was 10,474, but in the next decade it was only twenty-five hundred.³⁰ In the 1830s, a more extreme pro-slavery attitude arose among White Virginians, leading to fewer manumissions.³¹

After 1830, manumissions were largely confined to cities, where there were higher numbers of free Black people and increased freedom of movement. Manumissions were initiated by an enslaved person who bargained directly with an enslaver, or sometimes through a free Black relative or friend, or through a White person.

Records of free Black Virginians

Researchers tend to avoid records that do not appear directly related to their research goals. This inclination is most unfortunate. Records referring to free Black Virginians often have information about enslaved people and White neighbors.

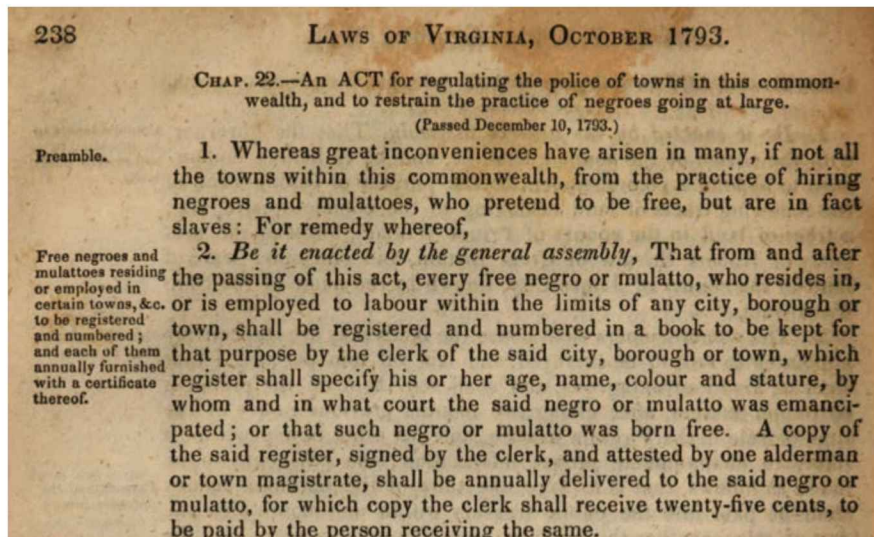
A variety of records has survived: simple lists, detailed texts, documents containing personal information such as birthplace, age, and physical description. Some records identify White people who enslaved human beings and those who did not. Original records reside in courthouses, libraries and museums, colleges and universities, and private collections; some are digitized. Indexes and abstracts appear in online databases, but even the most exhaustive Google search does not reveal all extant items. The records include:

- free Negro registers
- free Negro indentures
- petitions to be classified as White
- other freedom papers
- free Negro tax lists³²
- petitions for voluntary enslavement
- petitions to remain in the county or state
- requisitions of free Negroes for military and public use
- petitions for exemption from public use
- annual lists of free Negroes³³

The remainder of this article discusses Virginia's free Negro registers. Other states also required the registration of free Negroes.

Free Negro registers

In response to the growth of the free Black population and the fear that enslaved persons would try to pass as free, the Commonwealth enacted a law in 1793 that required free Black people who lived or worked in cities to register at their courthouse.³⁴ Ten years later, every free Black person in any county was required to register.³⁵



"An act... to restrain the practice of negroes going at large," 10 December 1793. Samuel Shepherd, Statutes at Large of Virginia, 1:238.

The registration captured age, a detailed physical description, and whether the person was free by birth or by manumission, noting by whom and in what court the person was manumitted. Sometimes other information such as the mother's name or the date of the will or deed of manumission was recorded.

Free Black people had to carry copies of these "freedom papers" at all times. If they did not, they could be jailed until they proved their freedom and paid the jailer's fee. Registration expired after three years, which meant a return to the courthouse.³⁶ This requirement was more strictly enforced in urban areas with larger numbers of people unknown to the community.

32. The Virginia Genealogical Society's *Magazine of Virginia Genealogy* has published the author's transcriptions of these lists for Alexandria County, Norfolk County, City of Portsmouth, and Princess Anne County.

33. Shepherd, *Statutes*, 2:301. Starting in 1801, each commissioner of the revenue was required to annually compile "a complete list of all free negroes or mulattoes within his district, together with their names, sex, places of abode, and particular trades."

34. Shepherd, *Statutes*, 1:238.

35. Shepherd, *Statutes*, 2:417.

36. Shepherd, *Statutes*, 1:238.

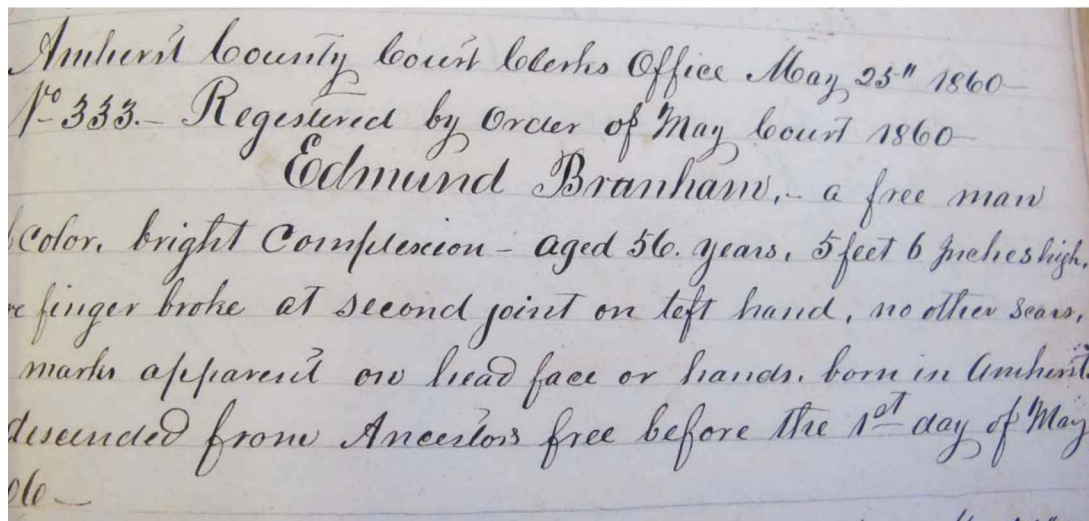
Freedom papers were essential to protecting liberty, but they were worthless if destroyed or ignored. Some free Black people were robbed of freedom papers and sold into slavery.

Using free Negro registers

Follow an individual over time and track identifiers to determine whether the person is the same. Family groups tended to register at the same time, so it's possible to study family composition and note the emergence of kin relationships.

Finding individuals in the registers does not necessarily prove their African descent. "People of undetermined mixed-blood ancestry are also included in the registers, along with Asians, Italians, and full-blooded Native Americans... In the registers the term 'mulatto' may include individuals of Indian-White mixture, Black-White mixture, or any mixture of the two." Study multiple sources to avoid making incorrect assumptions about the ethnic identity of people named in the registers.

Order and minute books are also sources of information for the registration of free Black Virginians, particularly for counties without separate registration registers.³⁷



Free Negro registration for Edmund Branham, 25 May 1860, Amherst County, Virginia. The UncommonWealth blog, courtesy of the Library of Virginia.

“People of undetermined mixed-blood ancestry are also included in the registers, along with Asians, Italians, and full-blooded Native Americans.”

Locating free Negro registers

The Library of Virginia (LVA) has free Negro registers on microfilm for many cities and counties. Reels are available via interlibrary loan through a participating public library, which may charge a nominal fee.

To identify the reels, see “A Guide to Virginia County and City Records on Microfilm” on the LVA website, which contains search tips and links to localities in the Commonwealth.³⁸ Many counties and four independent cities have a Free Negro and Slave Records category. A search for “free Negro register” in the Virginia Heritage manuscript database results in sixty-one finding aids for records at LVA.³⁹

Two articles in the *Virginia Genealogical Society Newsletter* provide details about published transcriptions and locations of free Negro registers as of 2003-2004. The first article has an annotated

inventory of thirty-three books and articles with transcriptions of free Negro registers and other lists of free Black Virginians. The second article lists the locations of selected extant registers not known to be published, nearly all at LVA or county courthouses.⁴⁰

To find published free Negro registers in library catalogs, get creative with combinations of search terms such as “free Negro,”

“free Blacks,” “register(s),” and “registration.” If a book is not available locally, arrange an interlibrary loan if available.

37. Robert W. Vernon and Carmen Scott Thrower, “Virginia’s Free Negro Registers,” *Virginia Genealogical Society (VGS) Newsletter* 21:2 (March-April 1995), 2.

38. “A Guide to Virginia County and City Records on Microfilm,” *Library of Virginia* (<https://www.lva.virginia.gov/public/local>).

39. *Virginia Heritage* (<https://vaheritage.org>).

40. Dorothy Boyd-Rush, “An Annotated List: Extant and Transcribed Registers and Selected Lists of Free Negroes in Virginia,” *VGS Newsletter* 29:6 (December 2003), 8-10; 30:1 (February 2004), 8-10.

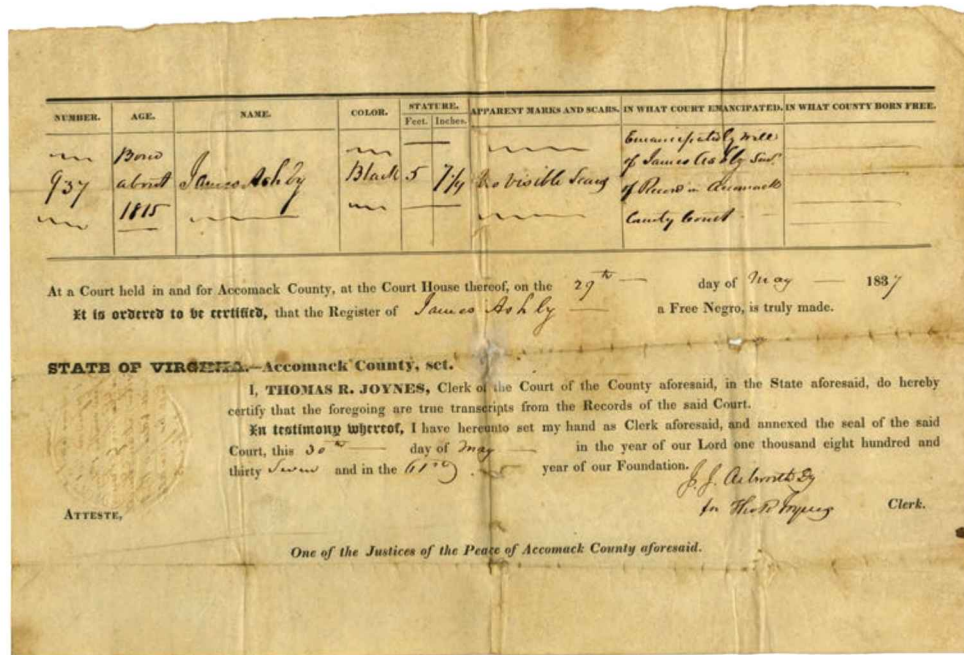
Digitized free Negro registers on FamilySearch

In the Catalog at <https://www.familysearch.org/search/catalog>, search for the name of the county or independent city, and select Court Records, Minorities, or Slavery and Bondage. Most of these records are available for viewing without restrictions.

- Accomack County, 1785-1863
- Alleghany County, 1855?-1859
- Arlington County, 1797-1861
- Brooke County [no years provided]
- Campbell County, 1801-1850
- Essex County, 1810-1861
- Fairfax County, 1822-1861
- Fluvanna County, 1851-1864
- Greensville County, 1803-1832
- Isle of Wight County, 1785-1870
- Mecklenburg County, 1809-1864
- Middlesex County, 1800-1862
- Nelson County, 1853-1865
- Norfolk County, 1809-1861
- Northampton County, 1840-1847 [or 1853-1861]
- Northumberland County, 1803-1851
- Pendleton County, 1839-1859
- Petersburg (Independent City), 1794-1850
- Rappahannock County, 1834-1863
- Surry County, 1800-1856; 1794-1862
- Westmoreland County, 1828-1849
- York County, 1831-[1850?]

Free Negro registers online

Virginia Untold: The African American Narrative, on Virginia Memory, has a digitized collection containing nearly four thousand records involved in the free Negro registration process, including the Carroll County register, 1846-1860, and numbered certificates, affidavits, and loose papers for individuals. Search the collection at <https://www.virginiamemory.com/collections/aan/search-the-narrative>.



Free Negro registration of James Ashby, 28 May 1837, Accomack County, Virginia. The registration includes a copy of the will of James Ashby Senior, in which he emancipated twenty-one enslaved people. Virginia Untold: The African American Narrative, courtesy of the Library of Virginia.

Several libraries and research centers offer details from free Negro registrations on their websites. Volunteers for the Richard H. Bowman Center for Local History in Charles City County abstracted eight hundred registrations from court minute and order books spanning 1823-1864.⁴¹ Search the database or download the entire list.

The Fairfax Circuit Court Historic Records Center is developing an index of enslaved and free Black Virginians named in the records of that court from 1742 to 1879, including free Negro registrations. The digitized collection of index cards currently has the names of thirty-one hundred free Black people and references to six hundred manumissions.⁴²

Also useful is Paul Heinegg's *Free African Americans of Virginia, North Carolina, South Carolina, Maryland, and Delaware*, at <http://www.freeafricanamericans.com>. The site has registration lists for fourteen counties, other records of free Black Virginians, and genealogies of six hundred free Black families in Virginia.

41. "Free Negroes and Mulattoes Registrations," *Charles City County Historical Society* (<https://charlescity.org/learn/genealogical-databases/free-negroes-mulattoes>).

42. "Fairfax Court Slavery Index," *Fairfax Circuit Court Historic Records Center* (<https://www.fairfaxcounty.gov/circuit/historic-records-center/fairfax-county-slavery-index>).

For lists of digitized registers on FamilySearch and other online transcriptions, see the sidebars.

Conclusion

Free Virginians of African descent were not free to travel, testify against a White person, receive education, vote, serve on a jury, marry a White person, pursue employment of choice, own weapons, purchase liquor, assemble peaceably, direct religious pursuits freely, own dogs, or hunt.⁴³ The practice of registering free Black people, designed to restrain their mobility, sheds light on the stories of their lives. 🌳

Resources

Boyd-Rush, Dorothy. "An Annotated List: Extant and Transcribed Registers and Selected Lists of Free Negroes in Virginia," *VGS Newsletter* 29:6 (December 2003), 30:1 (February 2004).

Burr, Sherry. "The Free Blacks of Virginia: A Personal Narrative, A Legal Construct." *The Journal of Gender, Race & Justice*, vol. 19 (2016). Digital Repository, New Mexico School of Law (https://digitalrepository.unm.edu/law_facbookdisplay/197).

Frazier, E. Franklin. *The Free Negro Family: A Study of Family Origins Before the Civil War*. Nashville: Fisk University Press, 1932. HathiTrust.

Hening, William W. *The Statutes at Large; Being A Collection of All the Laws of Virginia [1619-1792]*, vols. 1-13. Richmond, Philadelphia, and New York: 1809-1823. FamilySearch, HathiTrust, Internet Archive. Transcription at Virginia GenWeb (<http://vagenweb.org/hening>).

Russell, John Henderson. *The Free Negro in Virginia, 1619-1865*. Baltimore: Johns Hopkins University, 1913. Google Books, Internet Archive.

Shepherd, Samuel. *Statutes at Large of Virginia, from October Session 1792, to December Session 1806... Being a Continuation of Hening*, vols. 1-3. Richmond: 1835-1836. HathiTrust.

⁴³ Russell, *The Free Negro in Virginia*, 96-98, 104-107, 116-119, 141-144, 149.

Online abstracts of free Negro registers

- Albemarle County, 1807-1865, <http://www2.vcdh.virginia.edu/fbr/About.shtml>
- Augusta County, 1803-1845, <https://valley.lib.virginia.edu/VoS/govdoc/fblack.early.html>; 1846-1865, <https://valley.lib.virginia.edu/VoS/govdoc/fblack.late.html>
- Charles City County, <https://charlescocity.org/learn/genealogical-databases/free-negroes-mulattoes>
- Fairfax County, <https://www.fairfaxcounty.gov/circuit/historic-records-center/fairfax-county-slavery-index>
- Lunenburg County, 1815-1850, <http://vagenweb.org/lunenburg/register.htm>
- Patrick County, 1791-1865, <http://files.usgwarchives.net/va/patrick/courts/colreg.txt>
- Prince William County, 1752-1865, and Stafford County, 1790-1867, <https://www.pwcgov.org/government/dept/library/pages/relichistoricrepository.aspx>
- Staunton (Independent City), 1810-1864, <https://valley.lib.virginia.edu/VoS/govdoc/fblack2.html>
- Washington County, 1796-1831, https://vagenweb.org/washington/Free_register.html

Virginia free Negro register abstracts in *Free African Americans*,

<http://www.freeafricanamericans.com/colonial.htm>

- Accomack County, 1807-1863
- Amelia County, 1804-1835
- Bedford County, 1803-1832
- Charlotte County, 1794-1865
- Fauquier County, 1817-1865
- Giles County, 1816-1864
- King George County, 1785-1799
- Montgomery County, 1823-1847
- Norfolk County, 1809-1852
- Petersburg (Independent City), 1794-1833
- Princess Anne County, 1830-1862
- Rockingham County, 1807-1859 (partial)
- Southampton County, 1794-1832
- York County, 1798-1831