

# Using Probate Records in Your Family History Research

## *Class 1: The Basics*

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Probate records are an important resource for connecting families and learning more about your ancestors. While wills are the most popular document in a probate file—as they often list out family members and connections—there are other valuable records found in a probate file that can provide new avenues of research and teach you more about the life of your ancestor.

### **Why Look at Probate Records?**

1. Determine and verify family connections
2. Vital record substitutes
3. Important source for female ancestors
4. Trace property and family heirlooms
5. Give context to your ancestor's life

*Also . . .*

- Many published genealogies never went to the bother of searching probate and deeds
- Because old handwritten documents are a challenge, they are overlooked by genealogists

### **Key Probate Record Terms:**

**Testate:** dies with a Last Will & Testament

**Intestate/Administration:** dies without a will

**File Papers:** the original documents associated with the probate file

**Record Books/Copy Books:** copies of certain probate files copied into bound record volumes

**Administrator/Administratrix:** an individual appointed by the court to administer the estate

**Executor/Executrix:** a person with the responsibility of having a will proved and acting on its conditions.

**Testator/Testatrix:** an individual leaving a will.

**Personal and Real Estate:** the possessions belonging to the deceased outlined for distribution

### **Common Documents found in Probate Records**

**Last Will and Testament:** Legal document that communicates an individual's final wishes pertaining to possessions and dependents.

- **Holographic Will:** a will that is reputed to have been written entirely by the testators
- **Nuncupative Will:** when the Will of an individual is conveyed in conversation orally.
- **Written Will:** is a handwritten or typed document conveying the distribution of the real and personal estate of an individual after their decease.

**Codicil:** An addition made after a will is written. The will is altered, explained or added to, but is not revoked. These can usually be found after the will. There can be multiple codicils created.

**Letters Testamentary:** A document from the probate court which allows the executor to settle an estate.

**Letters of Administration:** A document from the probate court which allows and administrator of an intestate authority to settle the estate

**Inventory:** List of real and personal property owned by the deceased; items are appraised for the estate

**Accounts:** A list of amounts owed to the estate by individuals, as well as debts owed by the deceased to others. These accounts must be settled before the estate is distributed.

**Distribution:** The division of the estate amongst the heirs of the deceased. This occurs after all debts and costs have been paid.

**Guardianship Records:** Document in which an individual is appointed by the court to oversee the interest and affairs of a minor.

- **Lunatic Commitment:** court action to have an individual committed due to their mental health.
- **Lunatic Guardianship:** the act when a guardian is assigned to oversee the affairs of an adult who is incapable of managing their own real or personal estate.
- **Spendthrift:** an individual deemed to be leading his / her personal or real estate to ruin, often assigned a guardian to oversee his / her affairs.

**Dower Right:** Portion of an estate given to a widow by law from her deceased husband's estate; usually 1/3

**Bill of Sale:** Documents indicating sale of certain parts of an estate in order. There are several reasons that this may happen.

## Published Resources

Barbara Jean Evans, *A to Zax. A Comprehensive Dictionary for Genealogists & Historians.* (Midlothian, VA: Hearthside Press, 1995).

Lawrence M. Friedman, *A History of American Law*, 3<sup>rd</sup> edition (New York: Touchstone, 2005).

Karen Grannum and Nigel Taylor, *The National Archives. Wills & Probate Records, a guide for family historians* (London: The National Archives, 2009).

Val D. Greenwood, "Understanding Probate Records and Basic Law Terminology," "What About Wills?" and "The Intestate" chapters within *The Researcher's Guide to American Genealogy* (Baltimore, MD: Genealogical Publishing Co., 2017).

Donald L. Jacobus, "Probate Law and Custom," *American Genealogist* (1932) 9:4-9.

Diane Rapaport, *New England Court Records: A Research Guide for Genealogists and Historians* (Burlington, MA: Quill Pen Press, 2006).

Christine Rose, *Courthouse Research for Family Historians: Your Guide to Genealogical Treasures* (San Jose, CA: CR Publications, 2004).

Kip Sperry, *Reading Early American Handwriting* (Baltimore, MD: Genealogical Publishing Co., 1998).

Loretto Dennis Szucs and Sandra Hargreaves Luebking, *The Source. A Guidebook to American Genealogy* (Provo, UT: Ancestry, 2006).