

Researching Colonial New England Ancestors

Class 3: Using Probates and Deeds

Melanie McComb, Senior Genealogist, melanie.mccomb@americanancestors.org

Why Use Probate Records?

- Provide an approximate death date for the deceased
- Verify family relationships
- Married daughters may be listed with their husband's surname
- Wills and inventories offer a glimpse into the personal belongings of an ancestor and how they were distributed
- Provide context of an ancestor's life

Probate Terminology

- **Administrator / administratrix:** an individual appointed by the court to administer the estate
- **Assignee:** person or entity that a beneficiary assigns the right to receive their inheritance
- **Beneficiary:** person or entity entitled to receive an inheritance
- **Codicil:** an addition or change to a will
- **Decedent:** the deceased person who left an inheritance
- **Devisee:** a person who is left real estate in someone's will
- **Dower:** the right of a widow to her deceased husband's land and property
- **Executor / Executrix:** a person with the responsibility of having a will proved and acting on its conditions
- **File Papers:** the original documents associated with the probate file.
- **Heir:** Blood relatives, surviving spouse, and adopted children (circa 1851-present)
- **Intestate / Administration:** dies without a will.
- **Inventory:** a list and appraisal of a testator's real estate and personal property
- **Legatee:** someone or an organization who receives a gift of an object or money in someone's will
- **Prove:** the evidentiary process to validate a will
- **Record Books / Copy Books:** copies of certain probate files copied into bound record volumes.
- **Testate:** dies with a Last Will & Testament.
- **Testator / Testatrix:** an individual leaving a will
- **Will:** a legal document usually written by the deceased with instructions on how to divide up their property and personal belongings.

Types of Wills:

- Attested will – one that was signed by the testator, dated, and had two witnesses
- Holographic will – signed will written by the testator but does not include witnesses
- Nuncupative will – will declared orally with two witnesses present

Where to Find United States Probate Records

- Filed in the courthouses where your ancestor last resided. Sometimes you find probate in the county where they owned property.
- Usually located on the county level.
- Exceptions:
 - Rhode Island: town level
 - Vermont and Connecticut: Probate Districts

Identifying when a County/Town/Probate District was Formed

- FamilySearch Wiki (<https://www.familysearch.org/wiki>) lists the founding date for each town/county/probate district.
- The Founding date of the town/county/probate district can also be found in the FamilySearch catalog (<https://www.familysearch.org/search/catalog>) at the top of the page for the town/county/probate district.
- AmericanAncestors.org has town guides for New England:
<https://www.americanancestors.org/browse/town-guides>

Probate Indexes

- Probate indexes can take many forms:
 - Card index
 - Index within the individual probate record book
 - Published index
 - Website with images
 - Online index

TIPS:

- Remember to check probate record books when the file papers are listed as “missing”
- Review the “Understanding and Utilizing Indexes” webinar to understand the different types of indexing systems - <https://www.americanancestors.org/events/understanding-and-utilizing-indexes>

Finding Probate Records on AmericanAncestors.org

- Search for indexed records via the Advanced Search
- Browse the probate databases, which include Massachusetts county probate databases as well as other states.
- American Ancestors is partnering with the Massachusetts Judicial Archives to digitize the probate file papers that are housed at the Massachusetts State Archives.

On AmericanAncestors.org we have the following list of databases:

- Berkshire County, MA: Probate File Papers, 1761-1917
 - Bristol County, MA: Probate File Papers, 1686-1880
 - Essex County, MA: Probate File Papers, 1638-1881
 - Franklin County, MA: Probate File Papers, 1812-1915
 - Hampshire County, MA: Probate File Papers, 1660-1889
 - Middlesex County, MA: Probate File Papers, 1648-1871
 - Norfolk County, MA: Probate File Papers, 1793-1900
 - Plymouth County, MA: Probate File Papers, 1686-1881
 - Suffolk County, MA: Probate File Papers*
 - Worcester County, MA: Probate File Papers, 1731-1881
- *Currently digitized up to 1882 – will eventually be digitized up to 1893

A full list of probate databases on AmericanAncestors.org can be found on our web site at

<https://www.americanancestors.org/browse-database?databasename=probate>

Finding Probate Records on FamilySearch

- In the catalog, search by Place for the Town, County, or Probate District
- Review the records under the Probate Records category, particularly for the ones with the court as the author.
- If the camera icon appears, you can browse the records. Use the probate indexes to identify the volume and page where the probate appears.

Finding Probate File Papers on FamilySearch

- In the catalog, search by Place for the Town, County, or Probate District
- Review the records under the Probate Records category, particularly for the ones with the court as the author.
- Look for something like “probate file papers,” “estate files,” “probate cases,” etc.
- Use the index to locate the case # and then identify the probate case file.

Finding Probate Records Using the FamilySearch Full-Text Search

- Link: <https://www.familysearch.org/en/search/full-text>
- Search using names in quotation marks (ex. John Wadsorth”)
- For place, select from the dropdown the location you’re interested in. Sometimes it helps to start at the town level as county boundaries may have changed.
- Keywords can be used to search for relatives such as a spouse’s name, siblings, parents, etc.

Why use Land Records?

- In some cases, a land record may be the only documented source you can locate.
- Land records can often trace generations of ownership of a single parcel of land.
- Using land records will help you determine the site of our ancestors’ house or farm today
- Tips:
- Remember not all deeds were recorded at the date of the sale.
- Native American deeds were not always recorded before legal settlement occurred by Colonists.

Proprietor Records

- The Colony courts assigned grants of land to groups of settlers.
- These settlers formed Proprietorship Committees to distribute land to settle towns.
- Where to locate Proprietor Records:
 - Town Halls. Town clerk, tax office or assessor
 - County Registry of Deeds.
 - Libraries and local historical Societies.
 - Family History Library microfilm.
 - Published transcriptions of Proprietor records.
 - Use FamilySearch as a resource to locate Proprietor Records in New England.

Tips:

- Tax records can indicate when your ancestor was paying a Real estate tax.
- Your ancestor did not need to reside in a community to own land there.
- Use Proprietor records to determine the earliest date of settlement for your family in the 17th and 18th century.

Land Registry Search

- Using the Indexes
- Tip: Search both the Grantee and Grantor Indexes
- Breaking up the parts of a Land record:
 - Introduction of the land record
 - Cost, description, metes & bounds and history
 - Conveyance to Grantee from Grantor
 - Mortgage Conditions (if applicable)
 - Signed, sealed and delivered.

Tip: Search for published transcriptions of the early land records before a search.

Generic Land Record Glossary

- **Appraisal:** process of valuing property or a real estate professional's estimate of a property's value.
- **Chain of Title:** The history of all the documents affecting title to a parcel of real property, starting with the earliest existing document and ending with the most recent.
- **Covenant:** a promise in a deed that affects or limits the use of the conveyed property.
- **Deed:** a written or typed document conveying property between two or more individuals
- **Easement:** the right to use the land of another for a specific purpose.
- **Forfeiture:** the loss of all interest in the property for nonpayment.
- **Grantee:** the person buying the property.
- **Grantor:** the person selling the property.
- **Lease:** Agreement between the owner of land and another for the use and occupation of the land
- **Metes and Bounds:** Method of land description that begins with a permanent object and then through distances and directions describes the parcel of land.
- **Mortgage (or Deed of Trust):** money borrowed with real estate held as collateral. Possession can be held, but title is held until the debt is paid
- **Mortgagee:** a person or party who holds the mortgage lien.

- **Mortgagor:** a person or entity who mortgages the property; the borrower, the owner.
- **Plat Map:** a method of land description that relies on a recorded map of a subdivision, with each deed making reference to the map and the particular lot being conveyed.
- **Plot Plan:** a drawing done showing the dimensions of a lot and the structures on it as they relate to the lot lines. Usually done for zoning purposes but do not meet strict recording requirements for plans to be recorded.
- **Primogeniture:** the right for the eldest son to inherit the land of his father's estate.
- **Quitclaim:** a deed that serves to transfer title if the grantor has any such title; there are no guarantees that the grantor has any title or good title.
- **Sheriff's Deed:** form of title given to a buyer at a mortgage foreclosure sale.
- **Warranty Deed:** a deed that conveys title and carries warranties that the title is good.

Finding Land Deeds on AmericanAncestors.org

- Search for indexed records via the Advanced Search
- Browse the databases which contain published deeds
 - Hartford, CT: General Index of Land Records of the Town of Hartford, 1639-1839 - <https://www.americanancestors.org/search/databasesearch/111/hartford-ct-general-index-of-land-records-of-the-town-of-hartford-1639-1839>
 - Maine: Early Wills and Deeds, 1640-1760 - <https://www.americanancestors.org/search/databasesearch/84/maine-early-wills-and-deeds-1640-1760>
 - Massachusetts: Plymouth Colony Deeds, 1671-1673 - <https://www.americanancestors.org/search/databasesearch/2771/massachusetts-plymouth-colony-deeds-1671-1673>
- A full list of databases with deeds or references to deeds on AmericanAncestors.org can be found on our web site at <https://www.americanancestors.org/browse-database?databasename=deeds>

Finding Land Deeds on FamilySearch

- In the catalog, search by Place for the Town, County, or Probate District
- Review the records under the Land and Property category, particularly for the ones with the court as the author.
- If the camera icon appears, you can browse the records. Use the grantor/grantee indexes to identify the volume and page where the deed appears.

Finding Land Deeds Using the FamilySearch Full-Text Search

- Link: <https://www.familysearch.org/en/search/full-text>
- Search using names in quotation marks (ex. “William White”)
- For place, select from the dropdown the location you’re interested in. Sometimes it helps to start at the town level as county boundaries may have changed.
- Keywords can be used to search for relatives such as a spouse’s name, abutting neighbors, names of property, etc.

State Resources for Deeds and Probates

- Massachusetts State Archives - <https://www.sec.state.ma.us/divisions/archives/archives.htm>
 - They hold the Papers Relating to Maine
- New Hampshire Provincial and State Papers on HathiTrust - <https://catalog.hathitrust.org/Record/010460207>
- New Hampshire Provincial and State Papers on University of New Hampshire - <https://scholars.unh.edu/propapers>
 - Index: <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1050&context=propapers>
- New Hampshire Provincial Deeds and Probate Records - <https://www.familysearch.org/en/search/catalog/310825> (FamilySearch Affiliate or FamilySearch center access required)
- New York Land Patents 1688-1786: Covering Land Now Included in the State of Vermont (not including military patents) – <https://www.familysearch.org/library/books/records/item/274209-new-york-land-patents-1688-1786-covering-land-now-included-in-the-state-of-vermont-not-including-military-patents>
- Proceedings of the Rhode Island General Assembly 1646-1851 - <https://www.familysearch.org/en/search/catalog/365961> (FamilySearch Affiliate or FamilySearch center access required)
- State Papers of Vermont - <https://babel.hathitrust.org/cgi/pt?id=mdp.39015001989071&seq=1>

Publications

Akagi, Roy Hidemichi, *The Town Proprietors of the New England Colonies: A Study of their Development, Organization, Activities and Controversies, 1620-1770*. (Peter Smith Publishers, 1963).

Bangs, Jeremy Dupertuis, *Indian Deeds: Land Transactions in Plymouth Colony, 1620-1691*. (Boston, MA: NEHGS, 2002).

Bockstruck, Lloyd D., *Revolutionary War Bounty Land Grants Awarded by State Governments*. (Baltimore, MD: Genealogical Publishing Co., 1996).

Bown Jeff, *Native American Wills and Probate Records, 1911-1921: Including 76 Never Before Published Wills* (Baltimore, MD: Genealogical Publishing Co., 2008).

Greenwood Val D., "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., 2000).

Cronin, William, *Changes in the Land: Indians, Colonists, and the Ecology of New England*. (New York, NY: Hill and Wang Publishers, 2003).

Hone, E. Wade, *Land and Property Research in the United States*. (Salt Lake City, UT: Ancestry, 1997).

McClure, Rhonda R. *Genealogist's Handbook for New England Research*, 6th Edition (Boston, NEHGS, 2021). Available for sale at <https://shop.americanancestors.org/collections/new-england-resources/products/genealogist-s-handbook-for-new-england-research-6th-edition-pre-sale>.

McComb Melanie, Webinar Syllabus, Understanding and Utilizing Indexes, July 2014. Available for purchase at <https://shop.americanancestors.org/collections/webinar-materials/products/webinar-syllabus-understanding-and-utilizing-indexes>

Mitchell Tricia Healy, *Using Probate Records* (Boston, Massachusetts: New England Historic Genealogical Society, 2019).

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

Salmon, Marylynn, *Women and the Law in Early America*. (Chapel Hill, NC: University of North Carolina Press, 1989).

Stoddard, David F., "Land System of the New England Colonial Colonies." *Connecticut Nutmegger* (1979), 11:556-564.