

Researching Upstate New York

Class 4: Using and Understanding New York Probate Records

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Why use probate records?

- Vital genealogical evidence for family relationships
- Estimate death date range and ages
- Glimpse into personal possessions of our ancestors
- Often overlooked by genealogists leaving published genealogies incomplete

Glossary

Codicils: an altered supplement to an original will. There can be multiple codicils created

Divisions: a document which distributes the real or personal property from an estate to the heirs

Dower: the widow's portion (usually one third) of her late husband's estate used for her lifetime

File Papers: the original documents associated with the probate file

Guardianship: the act when a guardian is assigned to oversee the affairs of a minor child; Children over the age of 14 could choose their own guardians. A guardian could also be assigned to oversee the affairs of an adult who is incapable of managing their own real or personal estate.

Holographic Will: a will that is reputed to have been written entirely by the testator

Intestate: when a person dies without leaving a will

Inventory: the accounting of the real and personal estate of the deceased

Letters of Administration/Testamentary: allowed administration/probate of the estate to proceed after a person/executor applied for the right

Nuncupative Will: when the will of an individual is conveyed in conversation orally

Probate Packet/Estate File: compilation of original loose probate papers

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

Sale: act of selling real or personal estate by the guardian, or to sell items of the estate via probate

Testate: when a person dies leaving a Last Will & Testament

Will & Testament: The "will" is the document to distribute the real estate, and "testament" distributes the personal effects of the estate.

Written Will: a handwritten or typed document conveying the distribution of the real and personal estate of an individual after their decease

Types of probate documents:

- ✓ Will
 - Written
 - Holographic
 - Nuncupative
 - Codicils
- ✓ Petition
- ✓ Bond
- ✓ Administrations
- ✓ Inventories
- ✓ Guardianship
- ✓ Dower Rights
- ✓ Minutes/orders

New York Probate History

1624-1664	New Netherland implemented <i>Roman-Dutch Law</i> regarding probates <ul style="list-style-type: none"> ➤ no official probate court
1644-1663	many probates recorded by notaries or Secretary of the Colony
1664-1692	English law – “Duke’s Laws” <ul style="list-style-type: none"> ➤ courts of session had jurisdiction ➤ over £100 meant records sent to Court of Assizes at NYC (NY County Court)
1683	Charter of Liberties enforced English law; dower rights of widows
1692-1783	Prerogative Court at NYC
1778-1787	State Court of Probates – abolished 1823
1787	County Surrogate’s Court was created <ul style="list-style-type: none"> ➤ responsible for keeping probate records concerning testate and intestate estates
1830	state law/state improved uniformity <ul style="list-style-type: none"> ➤ probate petition to list all heirs-at-law ➤ mandatory to keep all probate documents permanently
1847	Appellate jurisdiction transferred to NY Supreme Court
1848	married women were given the right to own their own property <ul style="list-style-type: none"> ➤ allowed to leave wills even if she predeceased her spouse

Finding New York Probate Records

Step 1. Look at published abstracts/transcriptions first. Typically, these are indexed for every name and provide citations.

Step 2. Look for digitized/filmed record books. An abstract usually indicates a will book copy. The original may not survive, so you may need to rely on register copies.

Step 3. Look for the original will and/or probate/administration files.

TIPS:

- Don't assume your ancestor didn't have a probate.
- Remember there should be a probate file and a probate record book copy.
- Look beyond the will. After 1830, make sure to look for the petition.
- Check Albany and New York counties for early records.

Resources

Guides

New York Genealogical and Biographical Society, *New York Family History Research Guide and Gazetteer*, (N.Y.: New York Genealogical and Biographical Society, 2014)

Marian S. Henry, *New York Essays: Resources for the Genealogist in New York State Outside of New York City* (Boston: NEHGS, c2007); AmericanAncestors.org/browse/articles.

Henry Hoff, "New York Research," AmericanAncestors.org/education/learning-resources/read/new-york-guide.

Periodicals

The New York Genealogical and Biographical Record

The New York Researcher (called *The New York Genealogical and Biographical Newsletter* before 2004)

Central New York Genealogical Society, *Tree Talks* cnygs.org/publications.html.

Probate Records

New York State Archives Information Leaflet #3, *Probate Record in the New York State Archives*, at archives.nysed.gov/research/res_topics_legal_probate.

New York State Surrogate's Court, *Abstract of Wills on File in the Surrogate's Office, City of New York*, in Collections of the New-York Historical Society series.

Berthold Fernow, *Calendar of Wills on File and Recorded in Officers of the Clerk of the Court of Appeals of the County Clerk at Albany, and of the Secretary of State, 1626-1836* (New York, N.Y.: Knickerbocker Press, 1896).

Berthold Fernow, *The Minutes of the Orphanmasters of New Amsterdam 1655 to 1663* (New York, N.Y.: F.P. Harper, 1902-1907), 2 vols.

Henry B. Hoff, "Guardianship Records in New York State," *American Ancestors* 17:2 (Spring/Summer 2016):58–58.

Henry B. Hoff, "Navigating New York Probate," *American Ancestors* 12 (Fall 2011):54-56.

Henry B. Hoff, "New York Probates Recorded in Massachusetts, 1688-1689, During the Dominion of New England," *The New York Genealogical and Biographical Record* 139, no. 4 (Oct. 2008):266–268.

Harry Macy, Jr., "New York Probate Records Before 1787," *The NYG&B Newsletter* 2 (1991):11–15 and "Library Resources for Research in New York Probate Records since 1787," 3 (1992):3–7.

Gordon L. Remington, *New York State Probate Records: A Genealogist's Guide to Testate and Intestate Records*, 2nd ed. (Boston: NEHGS, c2011)

Kenneth Scott, *Records of the Chancery Court, Province and State of New York, Guardianships, 1691-1815* (New York, N.Y.: Holland Society, 1971).

AmericanAncestors.org: *Abstracts of Wills, Admins, and Guardianships in NY State, 1787-1835*

New York Wills, 1626-1836

New York: Abstracts of New York County Wills, 1662-1801

New York: Albany County Deeds, 1630-1894

Onondaga County, NY: Abstracts of Wills 1796-1841

Onondaga County, NY: Guardianship Records, 1815-1849

Ancestry.com: *New York, Wills and Probate Records, 1659-1999*

New York County, New York, Wills and Probate Records, 1658-1880 (NYS)

New York Wills, 1626-1836

FamilySearch.org: *New York Probate Records, 1629-1971*

New York Wills, 1626-1836

FamilySearch Full Text Search - <https://www.familysearch.org/en/search/full-text>