

Beyond the Grave: Uncovering Life Stories from Death Records

Class 3: Last Will and Testament

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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
 - New York: Early probate records for the state were sometimes filed in Albany County
 - Louisiana: Filed in the parish (ex. Orleans parish)

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.
- Founding date 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 and New York: <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

TIP: Remember to check probate record books when the file papers are listed as “missing”

Accessing Probate Records

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
- New York: Abstracts of Wills, Admins. and Guardianships, 1787-1835 - <https://www.americanancestors.org/search/databasesearch/7/new-york-abstracts-of-wills-admins-and-guardianships-1787-1835>
 - Abstracted details are provided along with indexed names referenced in the abstract.
 - Includes the county and volume where the corresponding record can be found on FamilySearch or through the county courthouse.
- 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&size=50&page=1>

Finding Will Books 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 and those that specifically state Wills or Will Books.
- 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 FamilySearch Full Text Search:

- Go to <https://www.familysearch.org/en/search/full-text>
- Enter name of ancestor under “Name”
- Enter county or town under “Place”
- Click Search and filter records on the left hand side (Collection, Year, Place Record Type are options)
- TIP: Use “last will and testament” under “Keywords”
- Note: You will want to use the arrows to go before and after the record you’re on to see the full file.

Publications

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

Karen Grannum, *Wills and Probate Records: A Guide for Family Historians* (Kew, England: 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., 2000).

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

Gordon Lewis Remington, *New York State Probate Records: A Genealogist’s Guide to Testate and Intestate Records* (Boston, MA: New England Historic Genealogical Society, 2011).

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