

USING WILLS AND PROBATE RECORDS IN GENEALOGICAL RESEARCH

By Judy Janes
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Estates were probated for approximately 25% of the heads of households in the U. S. before 1900. They were more likely to occur in rural areas rather urban locales.

Types of Wills:

- Testate: An individual left a valid (proven) will
- Intestate: An individual left no will
- Holographic: written, dated & signed in the testator's own handwriting – no witnesses
- Attested: Prepared for the testator, then signed and witnessed
- Nuncupative: Oral, deathbed, dictated, signed, and witnessed

The Value of Wills:

- Names of relatives, and usually their relationships
- Surnames of married daughters and their husbands
- Provides an exact or approximate date of death
- May disclose former places of residence through a bequeath of land holdings
- Executors, and witnesses are often relatives
- Wife and children may not be related
- May disclose religious affiliation through a bequest to a church

Types of Probate Records:

- Will
- The appointment of executors including Bonds
- Guardianship petitions for minor children
- List of heirs
- List of creditors
- Estate inventories
- Documents recording the distribution of assets
- Land records
- A death certificate – 20th century

Probate Records Are A Family Oriented Source:

- Administrators may be a relatives
- Only a spouse and living children may be mentioned
- Sometimes grandchildren are included
- Intestate cases include all heirs
- Guardians appointed for minors
- May find names of sons-in-law, siblings, parents and other relatives
- Good overview of a family's wealth
- The name of a widow's new husband

The Probate Process:

- The process based upon state laws
- State laws usually required the case to begin at the first county court term following the death of an individual, 30-90 days
- Will "proven" in court
- Executor or administrator appointed by the court
- Inventory of assets, creditor claims, sale of assets
- The executor or administrator usually files annual accountings of the estate to the court
- Final distribution of estate to the heirs
- Case may take years to settle

Supplemental Probate Records:

- Civil Court cases (lawsuits) among the heirs or by creditors
- Probate Court Minutes
- State Court cases
- Guardianship records
- Deed records – sale of land that had belonged to the deceased by the heirs

Locating Probate Records:

- Located at the county level
- The Family History Library has microfilmed, and in some cases digitized county probate records for the U. S. Consult their catalog.
- Ancestry.com has added a collection of U. S. county probate court records. Search by state, county, wills and probate, i.e. "Arkansas Wills and Probate"

Reference Books

Loretto Dennis Szucs, Sandra Hargreaves Leubking, *The Source: A Guidebook to American Genealogy*, 3rd Ed. (Provo, UT, 2006)

Emily Croom, *Genealogist's Companion and Sourcebook*. (Cincinnati, OH: Betterway Books, 2003)

Val D. Greenwood, *The Researcher's Guide to American Genealogy*. (Baltimore: Genealogical Publishing Co., 1990).

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Henry Campbell Black, *Black's Law Dictionary*, 2nd Ed. (St. Paul, MN: West Publishing Co., 1910)
InternetArchive.org download: https://archive.org/details/lawdictionary_blac_1910_00

Paul Drake, J.D., *What Did They Mean By That: A Dictionary of Historical and Genealogical Terms Old and New*. (Bowie, MD: Heritage Books, 2003)

