

United States Probate Records

Probate Records - They are the very best records for proving ancestry. They are open to challenge. These generally are not closed records. They are exhibited in open court. The clerk makes a record of them. If there is something inaccurate a party can challenge it and the record can be corrected. Because they are tied to land and money and property the people involved were very careful to ensure they were accurate. These are original records containing primary information, meaning that most of the information they contain was provided by eye witnesses or people who otherwise were in a position to know the facts, to be certain of the facts that those records contain. In genealogy it doesn't get any better than this. Thomas W. Jones, "Problem Solving With Probate"

Probate

- Records created after someone dies—pay debts—distribute assets to heirs
- Falls under state law
- Names of court & practices determined by state law
- Proceedings likely to begin 30-90 days following death

Will: Document by which a person regulates the rights of others over his/her property or family after his/her death.

Testament: A solemn, authentic instrument in writing by which a person declares his wishes as to the disposal of his estate and effects after death.

A Petition starts the probate process

- Filed with the Court
- By an Heir or Creditor
- May be Recorded in Probate Books or Minute Books
- Petition for **Letters of Administration** (an example)
 - May be only place all heirs are named

Other Categories of Probate Records

- Assess and liquidate assets
- Account for receipts and expenditures
- Conclude the estate

Bernard L. Brennan's estate produces 140 pages & included

- Bonds
- Inventories
- **Guardianships** (provision for a male adult to care for financial interests of minor heirs)
- Receipts
- Accounts
- Petitions
- Reports to the Court

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- Signatures of relatives
- Distributions

Follow a Probate to its Conclusion

- The Distribution is Complete When all Creditors Have Been Paid and
- When all Heirs Have Signed Receipts for Their Full Share of the Estate
- At That Time the Judge Should Release the Executor or Administrator

Not all probate records have been digitized or even microfilmed

- It may be necessary to contact the court

Act Upon the Hints in the Probate File

- Consider case of John G. Ellis

Case of Emily Cochran's will

- Names children
- Her husband
- Provides married names of children
- Compare to other records especially land records

James Folly's will

- Provides for the **Executor** (person the decedent prescribed should carry out the terms of the will)
- Names wife, children, slaves, and refers to children of his previously deceased wife
- Lists how assets are to be distributed

Division or Partition—divides property between heirs who received the land etc. jointly

- The James Foley Division
 - example of a land plat
 - Metes & Bounds
 - Names 12 people who should be included in the research

John Gould died **Intestate** (meaning without a will)

- Petition for **Letters of Administration** (by Jeremiah Gould)
- The person who applies to the court may be a relative or a creditor

Sureties—Pledge Their Own Assets That Administrators & Guardians Will Perform Their Duties Faithfully

- They very likely are relatives

Shortly following the opening of probate

- The court instructs the administrator and or executor to provide notice to creditors

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- This may be a posting in public places or
- In a local newspaper

The administrator must account for Receipts and Expenditures

Three men are appointed to **Appraise Assets**

Example

- Jacob Hysham appointed **Guardian** of the minor heirs of H. H. Singer
- He is responsible for the financial heirs of the minor heirs
- He must be bonded

Example

- Widow's petition for living expenses
- Names minor heirs
- Shows she has remarried following the death of H. H. Singer
- Shows her name

Maximize the Value of Probate Records

- Read & Transcribe Every Document Including Accounts
- Research Sureties, they are Probably Relatives
- Compare Probate Records with Other Records, Especially Land Records
- Find the Originals (Abstracts are not Sufficient)

Many Probate Records Have Been Microfilmed by FamilySearch

- FamilySearch.org
 - Search Records
 - Browse All Published Collections
 - Choose United States on the Left
 - Select a State on the Left
 - Click a Collection of Probate Records
 - Many times these collections will indicate Browse Images
 - Choose The County
 - Scroll to find and open an Index
 - These are Images of Microfilmed Records
 - Scroll to find the Surname You Are Searching
 - Read Column Headings to Find Volume and Page Number Where the Record is Recorded
 - Return to the Probate Records & Choose the Volume You Need
 - Scroll to the Pages Where the Record is Located

If Your County is Not Digitized Search the Family Search Catalog

- Hover on Search and Click Catalog
- Type the name of the state and the name of county
- Click the search button

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- Select Probate Records
- Choose an Appropriate Time Period
- The Author Should Be a Government Office
- Normally You May Need to Order a Microfilm for the Index
- After you Search the Index Use the Information to Select and Order the Microfilm for the Probate or Will Book

Other Ways to Locate Probate Records

- FamilySearch Wiki for Articles on Where to Find Them, What They Are, How to Use Them, Etc.
- Ancestry.com
 - They have indexed some probate records
- Google for Probate Records (you may find transcriptions)
- Contact the Courthouse for the Appropriate County
- Never Stop With Just an Abstract or an Transcript