

# *UNDERSTANDING COURT RECORDS*

**By Carolyn H. Brown**

There are many types of court records, and they may be housed in other facilities besides the courthouse. Each county and major city has a courthouse, however for smaller towns their records will probably be located in the county courthouse. Over time county boundaries changed, so before you start looking for records you need to know which county would have jurisdiction over the records you seek.

## **COURTHOUSE OR REPOSITORY LOCATION**

Many courthouses have burned, and the records you seek may not be available. Once you have determined where the records should be, it may help to contact the courthouse to see if the records still exist and where they are housed. Some counties sent their records created before 1900 to the state archives, and some of those records may now be housed in the state library.

## **TYPES OF COURT RECORDS**

It is up to you to know what types of court records you are seeking before you visit the courthouse or other repository.

Adoption	Criminal	Guardianship	Orders
Birth	Death	Marriage	Probate
Chancery	Deed	Minutes	Taxes
Civil	Divorce	Naturalization	Will

Old records are fragile, so please handle with care. Don't remove a book or documents from the facility, unless authorized to do so by the clerk or librarian.

## **COURT RECORDS VOCABULARY**

Court records have a vocabulary unique to each record type. Some terms used in older records mean something different than they do today. Learn the basics so you can glean the most from the records you find. Most notable is the use of "in-law." Before the 20<sup>th</sup> century, it meant those "related by-law." This means the daughter of your spouse by a previous marriage would be your "daughter-in-law," not the wife of your son. See attached.

## **BE PREPARED**

Don't take any original documents with you to the courthouse. Many records have been left behind at courthouses and libraries. If you must take the information, use copies of original documents. Better yet, transfer a copy of all of the documents to a tablet or smart phone.

Take extra blank Ancestry Charts and Family Group Sheets, as well as any forms you think you might need based on the facility you are visiting.

You may not be able to take anything but pencil and paper into the room where the documents are kept. You may wish to have a note taking app on your phone or tablet which will save a you lot of handwriting.

## **COPY THE RECORDS YOU FIND**

It's important to obtain a copy of each record you find, either by using a copy machine or taking a photograph. You may not be able to read the complete document based on strange words or a difficult handwriting. However, in time you may be able to figure it out, or you might find someone else who can read it for you. Since you may not know when you will return to the courthouse or the facility may burn down, you will have a copy of every document you accessed.

Make sure you record the entire source of the book or document on the front of the page. The title of the book/document, book/volume number, and page number for the document. When you make a copy, the source will always be with the document.

## **GATHER ALL OF THE RECORDS**

Many times one record you find will lead to another related record. When you find a will, look for the probate and land records for that person for the same time frame. If you are working in probate records, get a copy of every document in the file. You never know what you may find that occurred years after the person died. Did someone have to prove a relationship to the deceased or a person named in the will. If you find a deed for the sale of property, look for the deed/grant/patent when they acquired the property.

## **ADOPTIONS AND GUARDIANSHIPS**

Depending on the state and the time of the event, adoption records may be closed to the general public. In this case, you will need to contact a state adoption advocate to help you gain access to the records you are seeking.

Guardianships may be recorded on the court order books, and often indication at least one parent, who was most often the father. A male guardian was generally appointed for children even though the mother was still be living at the time. The general thinking was that women did not work and couldn't take care of the children. In some cases, the children remained with the mother and the guardian handled the money that was to go for the maintenance of the children.

## **CHANCERY AND CIVIL COURT RECORDS**

The chancery court is the court of equity and is the early form of civil court and is a carry-over from the time when the U.S. was ruled by England. The cases are generally disputes over money owed for an offence against the defendant, or for damages from an assault or defamation. In the case of land disputes they may occur many years after the original deed was recorded.

## **COURT ORDERS**

The court order books list the all cases brought before the court on court day. If you find something in a court order which indicates a judgement was passed, look for the referenced court case. These may include guardianships, illegitimate births, road maintenance, pub licenses, divorce documents, and anything pertaining to the running of a city, county or state.

## **CRIMINAL RECORDS**

Criminal records refer to the settlement of a crime including; personal injury, rape, murder, theft, or any action established by law as a crime. Base on where the case was tried, some of these records may be held at the state or federal level. If you know that someone had committed a crime, look for all documents presented in the case, and follow the event in the newspapers.

## **DEEDS**

Deeds have been know to provide an extreme amount of genealogical information. They may provide as much as three or four generations of the family in one deed. If the county records were burned, the property owner had to file his copy of the deed when the property was sold. You need to look at the court records for the land for the first ten or more years after the courthouse burned. Families can be identified by following their land purchases and sales.

## **DIVORCE RECORDS**

Divorce records are also housed at the county courthouse. They often tell the full story of what was taking place within a family. They will list all children living at home at the time of the divorce, and who gained custody of the children.

## **NATURALIZATION RECORDS**

Naturalization is the process by which an alien becomes an American citizen. These records can provide a researcher with information such as a person's birth date and location, occupation, immigration year, marital status and spouse information, witnesses' names and address, and more.

Since 1804 and until 1934, when men filed a declaration of intention to become a citizen but died prior to naturalization, his widow and minor children were “considered as citizens of the United States. If they/she appeared in court and took the oath of allegiance and renunciation.” There are two parts to the naturalization process—application of intention and final naturalization papers. When a person wanted to file an application of intent they were usually submitted at the county level. However, some may be found at the state or federal level. On September 22, 1922 Congress passed the Married Women’s Act, which finally gave each woman a nationality of her own.

### **PROBATE RECORDS**

Depending on the time frame and the location, probate records may appear in large court books along with recorded wills or in individual packets. Wills and probates recorded in will books may be spread over several years. Probate records, maintained in individual packets, should have a copy of every document used during the probate process. It is up to you to get a copy of each of those records. A sample of the types of documents found in probate records include; will, marriage license or certificate, death certificates of the person named in the will, birth records of children of a person named in the will who have since died. There may be other documents identifying the siblings and other family members of the individual.

### **READING WILLS AND OTHER COURT DOCUMENTS**

Sometimes wills and other court documents can be very hard to read. The terminology and spelling may seem like a foreign language. If your problem is the words, look them up in Black’s Law Dictionary. If your problem is the handwriting, look for other documents written by the same person and compare what you can read in that document with the document you can’t read. This may take some studying, and you should consider making an alphabet of that persons handwriting to use for all records you have gathered. Save a copy of your alphabet with the document.

### **TAX RECORDS**

Tax records show the wealth of the individual. People were required to pay taxes every year. The original list is in the order people paid their personal property and real estate taxes. A transcribed and sorted list may be in alphabetical order. If you found a transcription, look for the original list as you may be able to determine relationships based on the order taxes were paid. Tax records may lead you to other records. When a person first appears in the real estate tax rolls, look for a deed to the property or a transfer based on the death of a relative. By following the property you may determine when a person might have died. If the property appears in the name of someone else or “the estate of - - -”, you know you need to start looking for the deed for the property, and the will of the person last listed on the tax rolls. You may have to search back as far as two years before the entry. You may find that you need to work forward as much as 10 years after the death of the individual. Record the information for both real estate and personal property taxes.

### **VITAL RECORDS**

Vital records include; birth, marriage, and death records. Some may provide a lot of genealogical information. Be aware that some of these documents may have false data recorded therein. Death certificates provide primary information to name of person who died, date of death and the cause of death as determined by the medical examiner. Other information was provided by family or friends who might not know the exact information. I have found that some people lied on their marriage license. Then again, some change the information as provided by the court on their copy of the document. Always get a copy of the original document from the court.

### **COURT RECORDS INDEX FORMS**

Forms help you organize the information you find in the index of a court book by person, and page number. The index is usually found at the front of the book and often lists only the surnames of the people involved in the case. Copy the information to the appropriate form and input the data into your computer in a spreadsheet. If you have several families in the same county, record every entry for that surname in the index. Sort the file by book and page. Using the printout work your way

through the book or microfilm. This will not only allow you to go through the book once from front to back, but also gives you a list of the documents you have already researched, so you don't repeat your work.

**SAMPLE FORMS**

With the *Table* feature of your wordprocessor you can make the following forms to use when working with the indexes for Deeds, Wills, Court Orders, and other court documents.

INDEX TO COURTHOUSE RECORDS - WILLS, COURT ORDERS & OTHERS								County: _____
Court Record Type: _____				Reel Number: _____				State: _____
Surname	Given Name(s)	Spouse	Book	Page	Day	Month	Year	Notes

INDEX TO COURTHOUSE RECORDS - DEEDS											County _____	State _____
GRANTOR			TO	GRANTEE			Book	Page	Day	Month	Year	Notes
Given Name(s)	Surname	Given Name(s)		Surname								

ANNUAL TAX RECORDS											County: _____		
Reel Number: _____			Book Number: _____		Year: _____		State: _____						
Surname	Given Name	Year	Personal Property					Real Estate			Notes		
			Free Males		Slaves		Horses	Wagons	Other	Location		Acres	Value
			Over 16	Over 21	Under 16	Over 16	Cattle	Carriages					

**COURT RECORDS ARE A GOLD MINE FOR GENEALOGISTS**

Court records will provide a lot of family information you can't obtain from any other records.

# *Terminology Used in Court Records*

By Carolyn H. Brown

This list is by no means complete, but is meant to serve as a guide to the most common terms found in court records.

## **TERMINOLOGY USED IN LAND DOCUMENTS**

In order to use real-property documents with confidence and to follow effectively the legal proceeding involved, it is important to understand the legal terms used in deeds and other documents referring to land transfer. The language is technical, even arcane.

### ***Basic Land Divisions in the U.S.***

Land in the U.S. is divided in two basic methods *Metes and Bounds* and *Rectangular Government Surveys*. These two methods are further divided into *Lot & Block Descriptions*.

*Metes and Bounds*: Until the new United States got the huge Northwest Territory and other areas after the American Revolution, real estate tracts were measured by compass directions, roads, stream courses and the like. As a result, property lines went all over the map, seldom in a straight line. This type of outlining and surveying of the land became known by the age-old British system of metes and bounds. This is the common form of real property description used in records of the original thirteen colonies, as well as Hawaii, Kentucky, Maine, Tennessee, Texas, Vermont, West Virginia, and parts of Ohio. A typical description reads: "*beginning at a stone in the middle of the public road, corner to a lot of land late of Peter Price, running thence by Henry Games' parcel, S 52 ° W 18 chains to a cypress ....*"

*Rectangular Government Surveys*: After the federal government acquired the Northwest Territory and other post-Revolution areas of North America, all measurements were by range lines and/or other straight lines of latitude and longitude (rectangular survey). All states other than those described under metes and bounds above (parts of Ohio included) use a rectangular survey system created by the fledgling U.S. government to map its public domain. At intervals across the country, surveyors created axis points by laying out baselines that crossed existing meridians – Locating these near key towns whose names were then given the meridians. Beginning at each axis point, surveyors charted six-mile strips, running east and west, parallel to the baselines; these *township* rows were consecutively numbered from the axis point, both above and below the baseline. Similarly, beginning at the same axis point, they surveyed six-mile strips running north and south parallel to and on either side of the meridian, calling these rows *ranges*. The resulting checkerboard created square units six-miles by six miles that are individually termed *townships* also. Each square township was divided into thirty-six sections, one mile square (640 acres), called *sections*. Each section was then subdivided into half sections, quarter sections, or quarter sections of quarter sections. Thus, a parcel of land can be uniquely described in such a formula as *southwest (SW) quarter (1/4) of the northwest (NW) quarter (1/4) Section 12, Township 5 North, Range 3 East, San Bernardino (California) Meridian*.

1. A North-South *Meridian* is established thru a fixed point determined by astronomical calculation on a true Meridian.
2. An East-West *Baseline* is established through the same fixed point.
3. From these established lines, *Tracts* are laid out 24 miles square.
4. The *Tracts* are divided into 16 *Townships* each 6 miles square.
5. The *townships* are divided into 36 *Sections* each 1 mile square.

Because of the curvature of the earth, the Tracts, Townships and Sections are not exactly square. The north-south lines are adjusted for the curvature and the east-west line curve.

*Lot or Block Descriptions*: This is the system used in most urban areas. Developers submit to the county or city a map showing lot or block divisions of property previously identified by metes-and-bounds or rectangular-survey descriptions. Those maps, known as plat or tract maps, become the permanent reference point for future transactions of property in the affected area. A typical description

reads: "Lot Six (6) of the Nogales Tract, as shown on file Book 9, page 7 of Maps, Records of Riverside County, California."

Three types of colonies administered land matters prior to the Revolution.

- *Corporate Colonies*: Administration rested with the town fathers. CN, MA, RI, (and for sometime) VA.
- *Property Colonies*: Administration rested with the proprietors. DE, MD, NJ, NC, PA, SC.
- *Royal Colonies*: Administration rested with the Crown or its representatives. GA, NH, NJ, NY, NC, SC, VA.

Registration in the colonies varied by jurisdiction.

- *By Town*: CN, RI, VT
- *By County*: DE, KY, ME, MD, MA, NH,, NJ, NY, NC, PA, SC, TN, VA, WV
- *By Province*: NH (before 1772), NJ (before 1702), SC (before 1783)

Claim to lands in the public domain also resulted from different actions.

- Cession of lands from the colonies
- Conquest and treaty
- Purchase

### **SURVEYOR'S MEASURES**

- 625 square links (272.25 sq ft) = 1 square pole
- 16 square poles (4356 sq ft) = 1 square chain
- 10 square chains (43,560 sq ft) = 1 acre
- 640 acres (1 mi x 1 mi) = 1 square mile or 1 section
- 36 square miles (6 mi x 6 mi) = 1 township
- 16 square townships (4 ts x 4 ts) = 1 tract

### SQUARE MEASURE

- 144 square inches (12 in x 12 in) = 1 square foot
- 9 square feet (3 ft x 3 ft) = 1 square yard
- 30¼ square yards (5½ yd x 5½ yd) = 1 square rod (pole or perch)
- 160 square rods = 1 acre
- 4840 square yards = 1 acre
- 43,560 square feet = 1 acre

### LINEAR MEASURE

- 12 inches = 1 foot
- 3 feet = 1 yard
- 5½ yards (16½ ft) = 1 rod (pole or perch)
- 40 rods (660 ft) = 1 furlong
- 8 furlongs (5280 ft) = 1 mile

### GUNTHER'S CHAIN MEASURE

- 7.92 inches = 1 link
- 100 links (66 ft) = 1 chain
- 10 chains (660 ft) = 1 furlong
- 80 chains (5280 ft) = 1 mile

## **PROBATE RECORDS**

*Administrator:* A person who has the legal authority given to him to administer the affairs of an estate, especially in cases of minors, lunatics, and testators having no competent executor.

*Decedent:* A deceased person.

*Deponent:* One who gives evidence, especially in writing.

*Executor:* The person(s) appointed by the testator to execute the terms of the will, that is to see that the will is probated in the relevant Probate court and to see that the terms of the will are carried out.

*Executrix:* A female executor.

*In-law:* A relationship established by law. The child born to person by a previous marriage is a child-in-law to the current spouse, or any other relationship through marriage or adoption.

*Intestate:* Refers to a person having property, but dying without making a will, or for which a valid will cannot be found.

*Letter of Administration:* The act of a Probate court, or an instrument issued by a Probate court, in which an administrator, often next-of-kin, is given the authority to administer the goods and estate of a deceased person. Letters of Administration are often applied for when the deceased had property but left no will, in which case that person is said to have died intestate.

*Noncupative Will:* A verbal, rather than a written statement concerning the disposition of property on the death of the testator.

*Probate:* To legalize, to offer proof of an instrument offered as the Last Will and Testament of a person deceased.

*Probate Court:* A court with the authority to probate wills and to deal with all matters connected with probate records.

*Testator:* The individual making the will.

*Will:* A document detailing the lawful, voluntary disposition of property upon the death of the testator.