

My ancestor left a will – Well they should have done!

Introduction

A will is a document which sets out a person's wishes about the disposal of his or her property. The legal process of proving a will and administering and distributing the estate in accordance with those wishes is known as probate. Probate documents can be remarkably helpful to family historians and it would be a mistake to assume that only wealthy people made a will. If you are lucky, wills can be found from the fourteenth century up to the present day and no matter what the date, if they do exist, they can provide a tremendous amount of information. Probate records are personal and these documents might provide one of the few instances when you will "hear" the actual wishes and words of your ancestor.

Who could leave a will?

According to the 1540 statute of Wills anyone over the age of 14 for males and 12 for females (amended to 21 by the Wills Act 1837)

Married women (until the Married Women's Property Act of 1882) could only make a will with their husbands consent

Wills of spinsters or widowed women however are quite common

Lunatics, prisoners, traitors, heretics or slaves could not make a will though

What can be found on a will?

A probate document will usually record the following:

- 1 Name, address and occupation of the testator
- 2 Date the will was made and signed
- 3 Indication of the health of the testator when the will was made
- 4 Where to be buried
- 5 Details of the family – i.e. married daughters, sons' wives, grandchildren, in-laws. Elder children may have been provided for earlier and so might not be named
- 6 Details of property leased and owned
- 7 Date the will was proved and sometimes the date of death. Although the testator has died by this date, probate might not be granted for some considerable time after the death

What happened if there is no will?

Letters of Administration issued normally to next of kin (widow, child or brother)

The estate is classed as intestate and set rules of inheritance are applied (set out in medieval times) and confirmed in the Statute of Distributions of 1670

Wife

Children

Parents

Siblings

Where proved

Post 11th January 1858

Principal Registry of the Family Division

Pre 1858

By the appropriate church court and there are about 300 of them!

Some Common Terms

Estate	Possessions of the deceased
Codicil	Supplement altering the terms or adding to the original will
Testator	The person who leaves the will (may be testatrix for a female)
Intestate	Someone who dies without making a will
Beneficiary	Someone who has been left something in a will
Executor	Nominated person who will carry out the wishes of the deceased person
Probate	Court's recognition that the document is legally valid allowing its terms to be effected

Finding the right church court

Consult Phillimore or Probate Jurisdictions (see book list) for specific details or use the following guide

Land/property all in one archdeaconry	Archdeaconry Court
Land/Property in more than one archdeaconry but within one diocese	Consistory/Commissary Court
Land/Property in more than one diocese but all in Province of York	Prerogative Court of York (PCY)
Land/Property in more than one diocese but all in Province of Canterbury	Prerogative Court of Canterbury (PCC)
Land/Property in both Provinces	PCC (senior to PCY)
Outside archdeaconry but still in jurisdiction of Consistory or Province	Peculiar

Scotland and Ireland

While the legal system in Scotland is significantly different, finding testaments there is a lot easier. All documents proved in the Commissariat and Sheriffs Courts up to 1901 are to be found through a free index at www.scotlandspeople.gov.uk.

Ireland had a hierarchy of church courts similar to that of England. Sadly, many original Irish records were destroyed in 1922 but some had been indexed or abstracted before this destruction. The following may be of interest.

- Prerogative Court of Armagh - indexed
- Lesser church courts – some indexed
- Private collections at National Archives, National Library, Genealogical Office
- Extracts & Copies at SoG

Books

- Ancestral Trails by Mark Herber
- The Local Historian's Glossary of Words and Terms by Joy Bristow
- Words from Wills by Stuart A Raymond
- Phillimore Atlas & Index of Parish Registers
- Probate Jurisdictions (where to look for wills) by Else Churchill and Jeremy Gibson
- Wills & Probate Records by Karen Grannum and Nigel Taylor (TNA)

Websites

Post 1858

- Soldiers Wills www.gov.uk/probate-search
- Probate indexes 1858-1966 <http://search.ancestry.co.uk/search/db.aspx?dbid=1904>

Pre 1858

- Update to Probate Jurisdiction book www.dur.ac.uk/a.r.millard/genealogy/probate.php
- Death Duty registers / Bank of England Wills / Cheshire Wills www.findmypast.co.uk
- PCC Wills at National Archives <http://discovery.nationalarchives.gov.uk>
- UKBMD – check out county listings www.ukbmd.org.uk
- Medieval Genealogy www.medievalgenealogy.org.uk
- Access to archives www.nationalarchives.gov.uk/a2a
- Cyndi's List (UK Wills) www.cyndislist.com/wills/uk
- National Wills Index www.origins.net