

# 5 Things You Should Know to Get the Most from the Probate Collection on Ancestry

## 1. The Probate Collection Includes Much More Than Just Wills!

Because there is such a wide variety of documents included in an estate file, there may be times when you're not quite sure what you're looking at. Understanding the probate process can help, though. The term *probate* technically refers to the *proving* of a will; in other words, making sure it is valid. If the court finds that it was valid, the estate is *testate*. But there isn't always a will. When someone dies without leaving a valid will, the estate is *intestate*. While there may be similar records created in either type of distribution, there are differences, and these differences resulted in some different types of records.

### Testate Estates

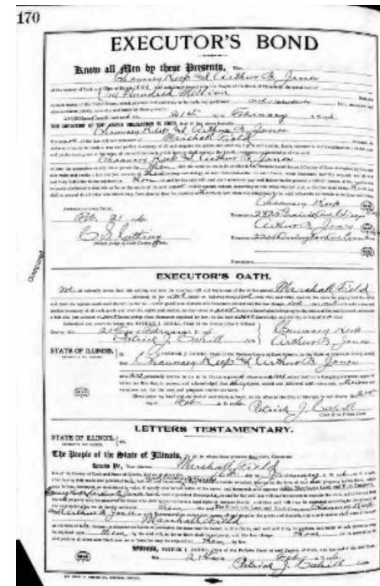
When someone dies leaving a will, the estate is *testate*. Naturally, in these cases you would likely find the *will*. The will typically names the *executor(s)* and outlines how the *testator* (the person making the will) wishes his estate to be distributed.

For testate wills, the process starts with the executor (or executrix if it was a woman) getting court approval to act as the executor, which was given in the form of *Letters Testamentary*. The executor was required to post bond that guaranteed he (or she) carried out the duties of the estate. Sureties may also be called upon to attest to the qualifications of the executor. They would likely be someone well-known to the family, possibly relatives or close friends, but they were typically not one of the *legatees*, those who were named to inherit property.

The will was then proved, or *probated*. Witnesses would attest to the validity of the will and a judge would determine whether it was in compliance with the laws of that place and time. The wills you find in this collection are sometimes originals that have been included in the packet, and sometimes they are copies that

were copied into registers, often listed as "will books." (When you're using copies remember that clerk who copied it may have made an error in the transcription – something to keep in the back of your mind when you're analyzing the details found in the record.)

Included with the wills, or sometimes separately, you may also find inventories with detailed lists of the property owned by the deceased and its value, as well as any debts owed by the testator.



Appraisement of Lundry, Goods wares & Merchandise  
belonging to the Estate of the Late Deceased Lieutenant  
Charles Oliver, taken by Order of Mrs. Elizabeth Newsted  
as Administrator, to said Estate. In New York this 1<sup>st</sup> May  
1723

In the Kitchen	
12 pot Ham & 1 lb. Old Andiron	10s
1 lb. Tong. & 1 Spitt	5
4 Iron potts 20. One Copper Kettle 30	2 10s
1 Old Brass pott. 1 Old Brass Sauce pan & 1 Old Brass Kettle	1
2 Old Brass Candelsticks. 1 Old Cole Iron. 1 Earthen jug 1/2	6
6 Old Knives. 1 Tray. 1 Old Table. 1 Chair. 2 pewter porringers	5
In the Fore Room	

Part of a 1723 New York estate inventory



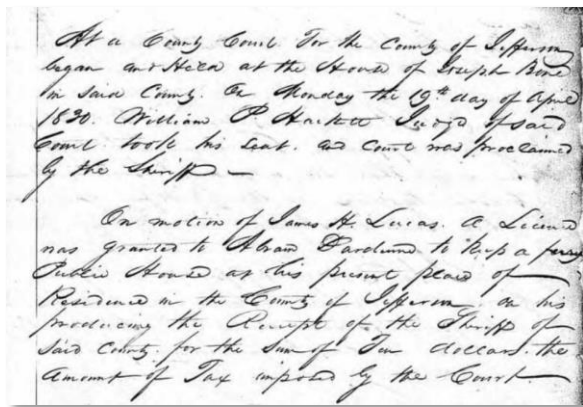
# 5 Things You Should Know to Get the Most from the Probate Collection on Ancestry

## Intestate Estates

If there wasn't a will, the process would start with a petition for *letters of administration*. The *administrator* or *administratrix* (if it's a woman) is the person who would be in charge of the proper distribution of the estate, and that person would be appointed by the court. The administrator was typically family, although in some cases if the deceased had debts, creditors could petition the court to act as the administrator. As in testate cases, the administrator would post a bond ensuring that the estate would be settled properly.

Since intestate estates don't have a will dictating how the deceased wanted his or her property distributed, the distribution would be in accordance with the laws of the state at that time. The prevailing laws determined who could inherit. But before the distribution could begin, heirs had to be identified and notified, an accounting of the estate's assets and debts had to be taken, and there had to be an order of distribution. Therefore, the records created by an intestate estate can be just as rich as those of a probate.

## Other Court Records

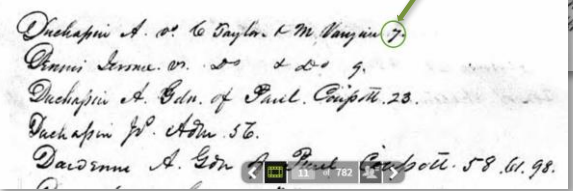
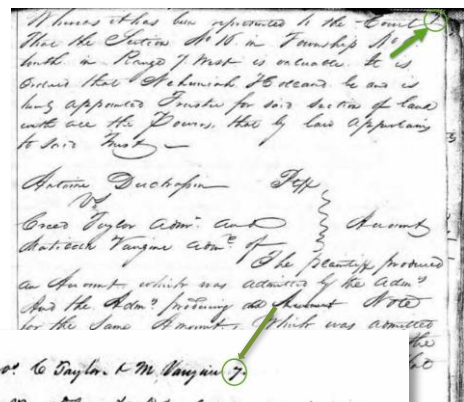


Jefferson County, Arkansas, Probate Court Docket, Books A-C, 1830-1852

For some locations, you may find more than just inheritance records in this collection, particularly in the earliest town and county formation dates. In the earliest Probate Court Docket books for Jefferson County, Arkansas, the records begin before a courthouse was even available, the court being held at Joseph Bone's house in April of 1830. The dockets list petitions to the court for licenses to operate public houses and ferries, and to have roads built. They document the development of the area and its first European residents.

While this subset of the Arkansas records have not been indexed, the docket books themselves have indexes in the front. Use the page number in the index to browse to the entries in the dockets. Even that index will only be as good as the clerk who created it, and some records may not be included in this collection, so wherever possible browse all of the records to gain unique insights into the interactions of the area's settlers.

You'll find this indexing system in some of the will books as well. If you're taken to an index like this one, you may need to browse the records to locate the actual will. Be aware some of these registers have multiple volumes and may have multiple indexes within that subset of the records.





# 5 Things You Should Know to Get the Most from the Probate Collection on Ancestry

## 2. Know the County History

Knowing where your ancestor's estate was processed is step one. Step two is determining whether or not Ancestry has records for that time and place. While the U.S. Wills and Probates collection does include records from all 50 states, it does not include *all* U.S. probate records. Over the years some records have been destroyed by fires, and in some places, they have not been microfilmed or digitized and still are only available offline in the county courthouse or in a local repository.

You're going to want to know generally when your ancestor died to begin your search. If you don't, timelines can help narrow the time frame, or look at the chronology in the Facts view of your online tree. ([See our guide to creating a timeline here.](#))

Check [Red Book: American State, County, and Town Sources](#) on the Ancestry Wiki to find county formation dates and probate availability. Just select a state and go to **[State] County Resources** in the right side panel to find the earliest year the records are available or **[State] Probate Records** to learn more about probates in that state in general.

**Note:** If an ancestor had property in different locations you may find records in these other locations, as that property needed to be legally transferred in that county/state.

Map	County	County Address	Date Formed	Parent County(ies)	Birth	Marriage	Death	Land	Probate	Court
	Adams New Purchase		1827 (eliminated 1844)	Delaware New Purchase						
C7	Adams	313 S. Jefferson, Decatur 46733	1835 (1836)	Adams New Purchase (Allen/Delaware/Randolph)	1882	1836	1882	1837	1838	—
B7	Allen	715 S. Calhoun St., Fort Wayne 46802	1824	Delaware New Purchase/unorganized	1882	1824	1870	1824	1825	1824
G5	Bartholomew	P.O. Box 924, Columbus 47202	1821	Delaware New Purchase	1883	1821	1882	1822	1821	1821

## 3. Know the Prevailing Laws

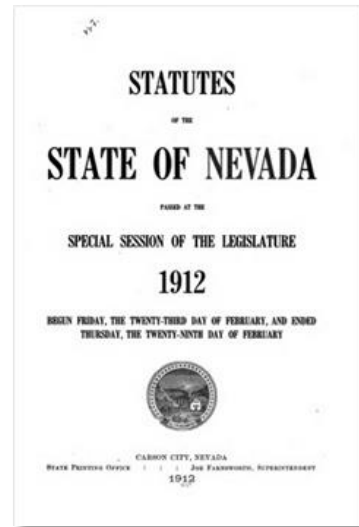
Because the laws could vary somewhat from state to state, it's helpful to learn something about the prevailing laws to best understand these records. The American Colonies adopted English common law and the laws evolved over time. Prior to the American Revolution, estates passed to heirs by primogeniture, which dictated that the eldest son inherited any real property. As the newly-established states broke with the Old World, states began creating their own rules of inheritance that dictated how property could legally be passed on.

# 5 Things You Should Know to Get the Most from the Probate Collection on Ancestry

The rights of *dower* and *curtesy* dictated what a widow or widower, respectively, was entitled to after the death of a spouse. Dower was the right of the widow to live on a portion of her deceased husband's estate and reap earnings on that property. You'll sometimes see this referred to as the "widow's third," since the portion was typically one-third of the estate under common law. Since women couldn't own property until the mid- to late-1800s (dates varied by state), this provision secured a place for the widow to live out her years. Upon her death her portion would revert to the estate.

In cases where minor children were involved, you may find guardianships, even in cases where there was a surviving parent. The guardian was appointed to look after the child or children's financial interests.

Because statutes varied over the years and from state to state, you'll have a better understanding of the records if you understand what laws were in place at that time. Fortunately, the statutes were published and you can find them on websites like the [Internet Archive](#), [Hathi Trust](#), and [Google Books](#).



## 4. Record Arrangement and Search Tips

In some places, you'll find probate packets all neatly bundled like Harriet Beecher Stowe's packet from Connecticut. Each section of the will can be accessed easily via the links in the lower left section of the side panel. (Note: To open and close the side panel, just click on the icon with the right pointing arrow, shown in the yellow box below.)

Connecticut, Wills and Probate Records, 1609-1999 for Harriet Beecher Stowe

SAVE

ESTATE OF  
*Stowe, Harriet Beecher*

Attached Deceased ✓ Incompetent Insane Insolvent Legatee Minor Trust ✓

TOWN OF *Hartford*

DATE *1896* NO. \_\_\_\_\_

Table of Contents 87 images

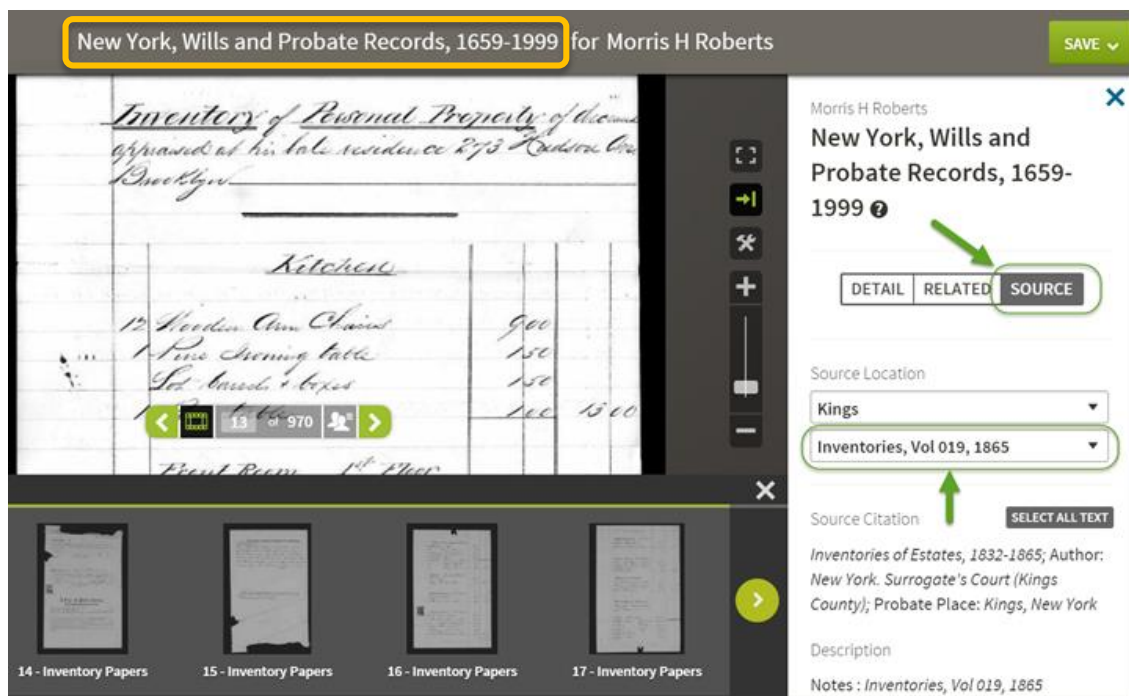
- Title Board 1
- Miscellaneous 2-3
- Cover Page 4
- WillPaper and WillPaperSub... 5
- Will Papers 6-10
- Account Papers 11-14
- Inventory Papers 15-18
- Petition Papers 19-20
- More

Filmstrip

- 4 - Miscellaneous
- 5 - Miscellaneous
- 6 - Cover Page
- 7 - WillPaper and WillPape...
- 8 - Will Papers

# 5 Things You Should Know to Get the Most from the Probate Collection on Ancestry

However, because records weren't consistently filed in the same way in every location, you'll have a different experience in some locations. Some counties have the various documents parsed out into different subsets. Inventories, letters of administration, guardianships and a host of other record types may be found in these separate subsets in the browse, so even if you've found your ancestor's will, look through all of the search results to see if there may be other records you're missing. To get an idea of what other records are available for a county, you can click on the **Source** link in the right side panel, and browse the various subsets in the second drop-down menu.



## Search Tips

- While estate files can include many names of witnesses, heirs, and other associates, only the name of the testator has been indexed.
- While there is a field to include a death date and place in the search form, keep in mind that some of the records may not list a date or place of death. Ancestry has inferred the death date and place based on the probate location. For the death location it is only inferred to the state level, so specifying a particular county and selecting **Exact** will turn up no results. In addition, the date of the court record (for example, an accounting) may be years after the original probate.
- Use the **Any Event** field to enter a more precise probate location and date. That said, keep in mind that there may be probates in any location where the testator had property, so don't skip hits because the location doesn't match exactly, particularly if the person was wealthy and may have had property in other jurisdictions.

## 5 Things You Should Know to Get the Most from the Probate Collection on Ancestry

- Once you're finished looking through a probate packet, you can return to the main search form for that state by clicking on the title in the gray bar above the image. (In the image above, it's in the yellow box.)
- The probate process can go on for many years, depending on the estate and provisions in the will, so be flexible with dates.
- In jurisdictions where records were parsed out into different record groups, as opposed to bundled in one probate packet, there may be more than one record for your ancestor, so be sure to look at all the possible references to your ancestor in the search results.

### 5. Slaves Were Often Named in Estate Records

Estate records can be helpful for those researching for African Americans who were enslaved. Because slaves were considered personal property, they were included in the wills and estate files of slave owners. While it's not as common to find them listed with surnames, first names can often be found. This [inventory for the estate of Timothy Hopkins](#) of Camden County, Georgia, submitted on 11 September 1833, lists the slaves and appears to have them broken down by family group. You can see that most groupings on the page are headed by a male and the values are consistent with values placed on slaves, with younger working-age men the highest, then women, then children.

An Inventory and appraisement of the estate of Timothy Hopkins dec'd	
Negro Man	4 00
Mary	3 75
Abraham	4 75
Leana	3 50
Wesley	3 25
Henry	1 50
Shammy	1 25
Harriet	1 50
Lewis	4 75
Mariah	3 50
Butt	1 50
Edward & Leiah Lewis	1 50
Jerry	4 00
Alger	3 50
Georgy	3 00
Calty	3 75
Robert	1 50
Benson	4 00
Billy	2 50
Little Mary	1 75
Wesley	1 50
Other	75
	19 50
	14 25
	10 00

Used in conjunction with other records, records such as this one could help you identify your slave ancestor. Manuscript collections that may include the owners' account books and other records, deeds of sale, tax records, slave schedules, advertisements for runaway slaves, as well as post-Civil War records like the records of the Freedmen's Bank and Freedmen's Bureau can all add supporting evidence. For more on researching your African American ancestors, see the "[African American Research](#)" chapter of *The Source: A Guidebook of American Genealogy*, by Tony Burroughs, FUGA, edited by Loretto D. Szucs and Sandra H. Luebking. African American resources on Ancestry and additional educational materials (including [this research guide](#)) can be found on the [African American Collection page](#). [AncestryDNA](#) can help you connect with others who share your ancestry, and the ethnicity update can tell you more about your genetic heritage.