

Introduction to Wills¹

What a will is

A will is a formal record of a person's wishes for the distribution of his or her property after death. It specifies the beneficiaries and what they are each to inherit, and names executors who will be responsible for ensuring that the terms of the will are fulfilled.

However, before the executors can act, the will must be "proved", that is officially established as genuine, and the executors formally given authority to proceed. Original wills, signed by the testator, survive only rarely, and the documents that genealogists use are the official copies made during the process of probate, and which are therefore public records.

Unlike most other genealogical records, wills are created not by the fiat of the state but at the discretion of the testator. While not perhaps as personal as letters, wills reveal much more about the personal lives and relationships of our ancestors than most official documents.

You might assume that a particular ancestor may not have been wealthy enough to leave a will, but in fact anyone who had some capital or who owned even a small piece of land might well decide it was worth spelling out who should inherit what. In any case, even if an ancestor was too poor to leave a will, he or she might well be the recipient of a bequest from a wealthier relation.

This means, incidentally, that it is worth looking for the wills not just of ancestors but of anyone in the wider family who may have made a bequest to an ancestor.

Why wills are useful

Quite apart from the intrinsic interest of seeing what land or personal possessions belonged to an ancestor, wills are valuable documents because of the genealogical information they provide. And they are exceptional in the first-hand nature of their evidence.

At the most basic level, a will provides evidence of the death of an ancestor; the date on which the will is proved gives an approximate date of death. Where you have been unable to trace a death or burial record, the will may be the only evidence of death; or, in the case of a common name, it may confirm which of several burial entries in a parish register refers to a particular ancestor.

Unlike census records, which describe only an ancestor's household, a will often provides evidence of the wider family, including nephews, nieces and grandchildren, and can be used to confirm family relationships deduced from records of birth or baptism. One of the great virtues of wills is they spell out the relationship to the testator of everyone mentioned (although terms like "cousin" and "kinsman" are less precise than we would wish). For example, bequests to a married daughter or her children should make it possible to identify the record of daughter's marriage and the baptisms of the ancestor's grandchildren.

¹ This article was originally commissioned in 2010 by Origins.net as introduce their National Wills Index. Origins' will data will now be found on Findmypast.

Outside the gentry, who have sometimes left complete pedigrees, wills are almost the only independent source of confirmation for family relationships suggested by baptismal and marriage records. And if you are researching the period before parish registers, a will may be the *only* evidence for a lineage.

But the value of wills goes beyond the pedigree — they also provide information on the occupation and social status of an ancestor, indicate the closeness or otherwise of the relationship to a spouse and children, and may allow you to identify in the present day a house or land owned by the family.

Finding a will

Nowadays probate is handled as a civil matter by the Probate Registry, which is part of H.M Courts Service. Finding a modern will is therefore simply a matter of using the Probate Registry's annual indexes. At present, you can only do this in person, for although the indexes have been digitised (and the most recent one were created electronically anyway), they are not yet available online.

However, the Probate Registry was created by Act of Parliament only in 1858, and before that date, wills were proved by ecclesiastical courts.

Finding a will proved in a church court *can* be straightforward: if an ancestor held property in only a single parish or in parishes that fall within a single local jurisdiction, it may be easy to establish which is the relevant court and locate the records (which are now mostly held in local record offices).

But it is often not so simple: the relevant probate jurisdiction depends on the location of the deceased's property, regardless of where he or she lived, died or was buried. And where property is held in different areas, probate may have been granted at a higher level court such as that of the local bishop (if it all falls within a single diocese) or one of the two Prerogative Courts, Canterbury and York.

In principle this means the wealthier an ancestor, the harder it may be to identify the correct probate jurisdiction. But even the less wealthy might own property in different areas, particularly if part of it is inherited via a parent from another part of the country.

Finally, some parishes are "peculiar", that is they do not belong to the diocese in which they would be expected to fall geographically, and have independent jurisdictions. These include the "royal peculiar", churches which fall directly under the jurisdiction of the Crown.

National Wills Index

All this makes finding a pre-1858 will a very hit and miss affair, made more frustrating because you probably will not know in advance whether there actually is a will to find.

Even though there are many printed indexes to wills, these are useless unless you can identify the correction probate jurisdiction. Also, such indexes generally give only the name of the testator, which means that they can't be used to search for beneficiaries of wills, or to search for particular places or properties. The purpose of the National Wills Index is to overcome these problems and make it easy to find any pre-1858 will in which an ancestor is named, whether as testator, beneficiary, executor or witness.

The NWI is taking existing will indexes or, where these do not exist, creating new ones, and combining them all into a single master index, searchable on all personal and place names mentioned in the wills. Digitised images and a hard copy service will give easy access to complete original documents.

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