

Lesson 6

Court/Land/ Wills & Probate

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COURT RESEARCH

Type of Court Records

DOCKETS: Calendars

I Civil, Criminal, Equity Court, Chancery, Orphans, Bankruptcy, Claims, Divorce, Adoption, Lunacy, etc.

A: Civil: Charles Hubbard vs James Brown

Plaintiffs's Declaration:

Writ of summons:

Attachment bond:

Defendant's Judgment Bond:

Deposition of Witnesses:

B: Criminal: State of Oregon vs John Jones

Indictment:

Warrant:

Jury Selection:

Summons of Witnesses:

Testimony:

Judgement:

Execution:

C: Equity:

The Bill, Declaration or Petition

Filing and service

Answer

Hearings and proofs

Decrees

II Special courts

Admiralty Court:

Common Court:

Military Court:

Slave/Native Americans Court:

III Probate Courts

Testate Estates

Intestate Estates

Guardianship

Probate Proceedings

MINUTES: Descriptive Entries of Action

ORDERS:

JUDGEMENTS:

CASES FILES OR PACKETS:

LOOSE PAPERS:

A LOOK AT LAND RECORDS

1) Documents where FACTS hide.....

- 1) Census
- 2) Land and property
- 3) Probate files
- 4) Marriage licenses
- 5) City directories
- 6) Year books

2) View the time line. *Oldest kind of records.*

3) An *American pedigree* can be and should be built on land records.

4) The story of America is about land...cheap or free land...

It attracted 2nd, 3rd, 4th sons. (Until 1820 (pop. 9.5 m) get credit from the gov.
\$1.25 acre or 1/4 section; 160 acres, for \$200.

5) There were more than 9,000,000 documents when the GLO was first formed in when the rectangle survey was begun in *1785* in Ohio. *35 years later the population had grown to 9.5 million.*

6) All immigrants were attracted by the offer of free land or nearly free but *Sweden* was very nearly emptied by the offer

7) Land and property records have probably *helped solve more difficult relationship problems* than any other single source.

SOME BASICS....

1) *Like a will*, a deed has a *formal form*. *a)* An opening with a date and where recorded with names and places of residence of parties concerned and the consideration. *b)* Body of the deed is the legal land description. *c)* reiteration of the claims and then witnesses

2) *Like a will* which may be *filed* in an *alpha* listing under “wills” or under “probate,” deeds may be filed under “grantee” or “grantor” or “land description.” i.e. section, 1/4 section or lot.

<<<<<Notes on Land Records>>>>>

Private Land Claims:

Patents: State (+Metes and Bounds)

Federal: (+Rectangle Survey)

Homesteads:

Deeds:

FEDERAL LAND GRANTS: *Programs through which land was distributed.*

Cash entries:

Credit entries:

Military bounty:

Donation claims:

Mining claims:

Preemptions:

Timber:

TIPS:

Did they buy more than they sold?

*

*

*

*

Did they sell more than they bought?

*

*

*

*

PLATTING:

Some things that may be revealed.

1-

2-

3-

4-

5-

6-

Hint: the first deed recorded in a particular area by a certain individual will sometimes tell that person's last place of residence.

LAND AND TAX RECORDS

METES AND BOUNDS: State lands to 1785...post Revolutionary War

TOWNSHIP & RANGE SYSTEM: Gov. land, in Far West over 100,000,000 acres.

Survey notes: little info (4 men & 66' = 1 chain; 7.25" = 1 link; 80 chains = 1 mile

Tract Books: (microfilm) Best index to claimants and patentees. Find entryman

Township Plats: Scribbled & written over. All are illegible

Patents: Indexed and computerized. Original in the Eastern States archives.

Land-entry case files: THE one!! Arranged 1st by acts, then state, land districts, numerical order. @ Sutland, MD)

- a. Declaration of Intent, b. Supporting doc. I.e. marriage license, c. witness testimony, d. Bounty land warrants in lieu of cash, e. Naturalization papers.

DEEDS: Often state relationship or imply it. Valuable tool for genealogy.

Records of Ownership: a. Royal Crown, b. proprietary Eng/Am c. Lord Baltimore.

Dower Rights: Wife rights: must assent to a sale in front of witnesses.

Quit-claim: Release the right to land. Married daughters even w/o interest/ sign.

Deeds of Gift: to slaves or grandchildren for \$1.00 or even "love and affection"

Settlements: Describes property divided between heirs.

GRANTS-PATENTS: Transfers from Gov to individual. 5 mil. Early+ Texas & Hawaii.

Colonial: Essential in search for colonial ancestor .Especially frontier families.

Also for a. special service. B. headright c. Individual purchase.(acc. Most)

Texas & Hawaii: Independent before joining the union.

Post Civil War: homestead files are rich in personal data/i.e.naturalization papers

CLAIMS: Originally France and Spain.

Six Flags: Government recognized as valid certain land grants acquired earlier.

Up to six generations may be listed in one case file.

BOUNTY LANDS: May/Dec marriages..

Veterans: in lieu of pay for service. Not just war but any military engagement.

Purchase: Wealthy could and would purchase bounty land for resale @ a profit.

DONATION LAND: Fed gov enticement for settlement. Same for States. OREGON

Packets: a lot of info if claims were taken out by wife & of age male children

Proof of relationship included.

TAX RECORDS: Taxes paid by adult (ages vary state to state) can locate your ancestor in a given time and place.vvvv

Harvesting Land Records...

First in and first out.....

1. Security..and moving on..... Not uncommon for a man to buy new property, then move on. If successful...go back and sell. Sometimes for speculation.
2. A deed does not indicate they have just moved there.
3. Check all carefully.
3. A sale may include the new address.

The Ones in the Middle...

1. Clues to relationships and identity.
2. Wife has interests...dower interests... she may sign to give this up/
3. May show if he was married and identify the wife.
4. Difficult to separate two people with same name? Identify the wife...
5. Show relationships: \$1.00 or Love and affection.

Everything else...

1. Locate all land. They don't all connect. Sometimes in different counties.
2. May own in conjunction with someone else.
3. Look at all kinds of records. Sheriffs sales.
4. Check Gazetteer...counties changed?
5. Missing land records may be checked against existing Tax records.

Quit Claim...

1. QC Deed is one where the grantor sells his share of property. It doesn't mean he owned it free and clear or by himself.
2. Many owners may have many deeds...not all equal. Chase them all down.

OBTAINING LAND RECORDS CASE FILES

After 1 Jan 1908:

Write for NATF form 84 from:

Old Military & Civil-Land Team

National Archives and Records Administration

Washington, DC 20408

You will need (1) name of person who obtained the land, (2) the state (3) and a request for a price quote.

Before 1 January 1908 and from one of these indexed states:

Alabama, Alaska, Arizona, Louisiana, Nevada or Utah

Write for NATF form 84 from:

Same as above.

You will need (1) name of person who obtained the land, (2) the state (3) an request for a price quote.

Before 1 January 1908 and from one of thirteen unindexed states:

California, Colorado, Idaho, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Washington, or Wyoming.

Write for NATF form from:

Same as above.

You will need (1) name of person who obtained the land, (2) the state, (3) the exact legal description of the property (from deed at a court house or a plat map or file number and land office shown on the patent.)

Before 1 January 1908 and from the nine indexed eastern states:

Arkansas, Indiana, Illinois, Michigan, Minnesota, Mississippi, Missouri, Ohio, or Wisconsin.

No form is required but write to:

Bureau of Land Management

Eastern States Branch

7450 Boston Blvd

Springfield, VA 22153

You will need (1) name of person who obtained the land, (2) the state, (3) a request for a copy of the patent issued to the person.

OR! Go to: www.glorerecords.blm.gov/search/

Steps

These 3 steps will link you to the appropriate guide.

Step 1. Determine the state where your ancestor lived as an adult.

Check the following to find the state where your ancestor lived:

- Family records (histories, pedigree charts, family group sheets, etc.).
- Published family histories.
- AIS Microfiche Census Index.

For additional ways to find where your ancestor lived, see How To Locate Your Ancestor in the United States.

Step 2. Determine if the state where your ancestor lived was a state-land or federal-land state.

Find your ancestor's state in the chart below:

STATE-LAND STATES	FEDERAL-LAND STATES
Connecticut	Alabama
Delaware	Alaska
Georgia	Arizona
Hawaii	Arkansas
Kentucky	California
Maine	Colorado
Maryland	District of Columbia
Massachusetts	Florida
New Hampshire	Idaho
New Jersey	Illinois
New York	Indiana
North Carolina	Iowa
Pennsylvania	Kansas
Rhode Island	Louisiana
South Carolina	Michigan
Tennessee	Minnesota
Texas	Mississippi
Vermont	Missouri
Virginia	Montana
West Virginia	Nebraska
	Nevada
	New Mexico
	North Dakota
	Ohio
	Oklahoma
	Oregon
	South Dakota
	Utah
	Washington
	Wisconsin
	Wyoming

Step 3. Check the following web sites for suggestions on how to obtain your ancestor's land grant.

Federal-land web sites:

- The Bureau of Land Management Official Federal Land Patent Records Site. This web site gives live database access to federal land conveyance records for public or federal land states. Image access is provided to more than two million federal land title records for Eastern public land states, issued between 1820 and 1908. The site contains many additional helps.
- Survey of the Public Land States. This site names the public domain states and gives the date of admission to the Union together with the present location of the original records of public land surveys.
- Glossary of Public Lands Terms. This site gives definitions for many public land terms.
- Frequently Asked Questions. The Bureau of Land Management gives answers to many questions about obtaining federal land records.

For information on what you need to know to obtain the case file, see Tip 1.

State-land web sites:

- Acquiring Land (U.S.). This site discusses the process of obtaining a land grant, including descriptions of the steps involved.
- Land Office Patents and Grants — The Library of Virginia. Digital images of documents from the Crown (between 1623 and 1774) and the Commonwealth (from 1779) transferring new land to individual owners.

For information on what you need to know to obtain a copy of a state-land grant, see Tip 2.

Web sites dealing with both state and federal land patents:

- Land Record Reference. This site links to many documents which explain the land process.
- Land Ownership Maps for 1400 U.S. Counties. These maps name the owners of land and show where they lived. The Family History Library has copies of these maps.
- Genealogy Riches in the *American State Papers*. This site discusses the use of *Grassroots of America*, an index to the land records in the *American State Papers*.
- Cyndi's List: Land Records, Deeds, Homesteads, etc. Provides links to many sites dealing with land acquisition.
- Legal Land Descriptions in the USA. This site explains surveying systems including indiscriminate metes and bounds and federal township and range.

Background

Fewer land and property records have been lost than any other record type. Land records are indexed by grantor (seller) and grantee (buyer) indexes. Grantor and grantee indexes are the most complete lists of residents in a county before 1850.

Entries or applications. After a person selected a piece of vacant land, he would enter a claim or apply for it by describing its features to a government official or entry-taker. The entry-taker would record the description on loose sheets or in bound volumes, depending on the period. These descriptions show the name of the person seeking the land, a description of the land, the number of acres, the name of adjacent land owners, and the date the entry was made.

ESTATES AND PROBATE

BACKGROUND:

- 1- Probate concerns itself with the verification or proving of wills and the administration of estates.
- 2- Responsibility rests in the state court system but jurisdiction has been exercised by the state, county, town, and/or district.
- 3- Any free person of sound mind and legal age can make and leave a will (testate estate) and of course any person can die without leaving a valid will (intestate estate).
- 4- Probate action includes matters relating to orphans and guardianship, insane persons and lunacy, as well as heirship matters.
- 5- Probate records are closely allied to land records as well as to civil-criminal court records and should be used in conjunction with them.
- 6- A variety of genealogical facts can be found in the records; including excellent kinship information, good death information, marriage details, and clues toward settlement and migration.

THE RECORDS:

- 1- A variety of documents are created in the normal probate procedure. Those relating to particular case are referred to as "files" or "probate packets".
 - a- wills and codicils
 - b- petitions and affidavits
 - c- letters and renunciations
 - d- bonds and caveats
 - e- inventories and appraisals
 - f- sales and accounts
 - g- settlements and support bills
 - h- divisions and distributions
- 2- Original wills are usually copied verbatim into special will books and indexed.
- 3- Documents other than the wills have been copied into special bound volumes in certain jurisdictions.
- 4- General indexes usually exist for probate and estate records with some jurisdictions having separate indexes for testate and intestate estates.
- 5- Original probate records are usually found at the court house. But some have been deposited elsewhere; such as at the State Library, State Archives, or Hall of Records.
- 6- The records are open to the public, with few exceptions, and may be searched during normal office hours.
- 7- Officials will often check an index or two through correspondence and inform an inquiring party of document copy costs but the will seldom search the records.

Wills and Probate

The Word List or "What do They Mean?"

1. Nuncupative:
2. Holographic:
3. Codicils
4. Testator/Testatrix:
5. Preamble:
6. Will:
7. Testament:
8. Devise:
9. Legatee:
10. Beneficiaries:
11. Revoke:
12. Executor/Executrix
13. Witnesses:
14. Probate file:
15. Primogeniture:

	<u>Relativity</u>
Mr., Mrs., Goodman, Goodwife	Cousins, Nieces, Nephews
Spinsters/Relicts	Natural children/Now wife
Step, In-laws	Sr., Jr., III
Brother, Sister, Father, Mother	Elder, Younger

JURISDICTION

(Will not in effect until death, then filed in the county where death occurred.)
Check for availability at local LDS FHL.

ALABAMA: Probate Court at the County Seat.
ALASKA: Superior Court of the appropriate Judicial District.
ARIZONA: Superior Court at the County Seat.
ARKANSAS: Probate Court at the County Seat.
CALIFORNIA: Superior Court at the County Seat.
COLORADO: District Court at the County Seat; except Denver (city).
CONNECTICUT: Probate Court of the appropriate District Shiretown.
DELAWARE: County Registers Court at the County Seat. (Very early records at the Hall of Records/ Dover.)
DISTRICT OF COLUMBIA: Probate Court, US Courthouse, Washington D.C.
FLORIDA: County Judge's Court at the County Seat.
GEORGIA: Ordinary Court at the County Seat.
HAWAII: Circuit Court of the Island.
IDAHO: District Court at the County Seat.
ILLINOIS: Circuit Court at the County Seat.
INDIANA: Probate Court at the County Seat.
IOWA: District Court at the County Seat.
KANSAS: Probate Court at the County Seat.
KENTUCKY: County Court at the County Seat.
LOUISIANA: District Court at the respective Parish Seat.
MAINE: Probate Court at the County Seat.
MARYLAND: Orphans Court at the County Seat. (Very early records at the Hall of Records/ Annapolis)
MASSACHUSETTS: Probate Court at the County Seat.
MICHIGAN: Probate Court at the County Seat.
MINNESOTA: Probate Court at the County Seat.
MISSISSIPPI: Chancery Court at the County Seat.
MISSOURI: County Court at the County Seat.
MONTANA: District Court at the County Seat.
NEBRASKA: District Court at the County Seat.
NEVADA: District Court at the County Seat.
NEW HAMPSHIRE: Probate Court at the County Seat. (Prior to 1772 Provincial records published)
NEW JERSEY: Surrogate Court at the County Seat. (Very early filed at the state archives in Trenton.)
NEW MEXICO: Probate Court at the County Seat.
NORTH CAROLINA: Superior Court at the County Seat. (Very early have been indexed and published.)
NORTH DAKOTA: County Court at the County Seat.
OHIO: Probate Court at the County Seat.
OKLAHOMA: County Court at the County Seat.
OREGON: Circuit Court at the County Seat.
PENNSYLVANIA: Orphans Court (Register of Wills) at the County Seat.
RHODE ISLAND: Town Probate Court.
SOUTH CAROLINA: Probate Court at the County Seat. (Prior to 1783 on file in Charleston)
SOUTH DAKOTA: County Court at the County Seat.
TENNESSEE: Probate Court at the County Seat.
TEXAS: County Court at the County Seat.
UTAH: District Court at the County Seat.
VERMONT: District Court at the appropriate Shiretown.
VIRGINIA: Circuit Court at the County Seat.
WASHINGTON: Superior Court at the County Seat.
WEST VIRGINIA: County Court at the County Seat.
WISCONSIN: County Court at the County Seat.
WYOMING: District Court at the County Seat.

TODAY	1920	1910	1875	1870	1850	1720	1450
RIGHT OF PRIVACY (70 YEARS).....			]		NEWSPAPER	RECORDS
GATHER OWN B/M/D <.....IMMIGRATION			]		[WILLS AND LAND RECORDS.....]	
FAMILY SOURCES					VITAL STATS. (MARRIAGES.....)		
					BIRTH/DEATH		

[illegible]

1907 PEAK YEAR=1,285,349