

## Wills and Administrations – Probate Records and ‘*Bona vacantia*’

This is an important source of genealogical information, especially before the advent of BMD certificates and census records.

After the Norman Conquest, interests in real property (that is land and buildings) descended automatically to the deceased's heir, usually a man's eldest surviving son. A man could not ignore these rules and direct that his land should be inherited by, for example, his second son rather than the first. The testator could choose who should inherit his personal property, such as money, tools or furniture, but ecclesiastical law provided that at least one-third of a man's personal property should pass to his widow (as her dower) and one-third should pass to his children.

In 1540 the Statute of Wills, allowed males from the age of 14 and females from the age of 12 to make a will or testament (these ages were raised by the Wills Act 1837). However, valid wills could not be made by lunatics, prisoners, traitors, heretics or slaves. Furthermore, while wills of unmarried women and widows were fairly common, wills for married women before 1882 are very rare. Married women could not, by law, own property until the Married Women's Property Act 1882. Before this, they and their possessions were treated as the possessions of the husband and they could only make valid wills with their husbands' consent.

If a person died intestate (that is without leaving a will), an application could be made to a court for the appointment of one or more administrators, to administer the deceased's estate and divide it among the beneficiaries. Administrators were usually the deceased's next of kin (a widow, child or brother), but his creditors were sometimes appointed. The records of appointment by the court, known as letters of administration (or admcons) are public records, but they contain far less information than wills.

Before 1858 grants of probate and letters of administration were dealt with by the ecclesiastical courts, the Prerogative Court of York (PCY) or the Prerogative Court of Canterbury (PCC) and the civil Court of Chancery had jurisdiction over the validity and interpretations of wills. The Probate Act 1857 provided that jurisdiction over wills and administrations should be transferred from ecclesiastical courts and the Court of Chancery to a new civil Court of Probate and since 1858 applications for grants of probate or admcons have been made at either the Principal Probate Registry in London, or at a district probate registry. The PPR therefore holds originals or copies of all wills and admcons for England and Wales since 1858.

In 1925 a change in the law of inheritance on intestacy was brought about with the Administration of Estates Act, which overturned some concepts originating in the feudal system. Prior to 1925, the Intestates' Estates Act 1890 provided for a statutory legacy of £500 to widows only and the 1925 Act increased this to £1,000 for both widows and widowers. The importance of the 1925 Act was the introduction of the system we have today whereby real and personal property is treated in the same way on intestacy, with the spouse or civil partner having first bite of the estate and, in default of eligible relatives, the Crown having the last where an estate is *bona vacantia* the Latin meaning of 'ownerless goods' which refers to unclaimed property which passes to the Crown (or, if the property is in Cornwall or Lancashire, to the relevant Duchy).

## Finding the wills....

- **WILLS 1384 – 1858 (PCC)**

The records of Prerogative Court of Canterbury (PCC) registered wills made between 1384 and 1858, when all wills had to be proved by the church and other courts, are held at The National Archives, Kew (Note; these wills exclude Northumberland, Westmorland, Cheshire, Cumberland, Durham, Yorkshire, Lancashire and Nottingham which can be researched at the (PCY) link but include the other English counties and Wales).

**[www.nationalarchives.gov.uk/help-with-your-research/research-guides/will-1384-1858/](http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/will-1384-1858/)**

- **WILLS 1383 – 1883 (PCY)**

The records of Prerogative Court of York (PCY) first held at the Borthwick Institute, University of York but now available on Findmypast

**[www.findmypast.co.uk](http://www.findmypast.co.uk)** – on the homepage, click on 'Q Search' and scroll down to A-Z of record sets, click on UK, scroll down and click on Page 37, then click on **York Peculiars Probate Index, 1383-1883** and start your search

- **WILLS AND PROBATE 1858 – 1996 (GOV.UK)**

**<https://probatesearch.service.gov.uk/#wills>**

- **Bona Vacantia**

**<https://www.gov.uk/government/statistical-data-sets/unclaimed-estates-list>**

- **National Probate Calendar 1858 – 1995 wills records**

**[www.ancestry.co.uk/cs/uk/probate](http://www.ancestry.co.uk/cs/uk/probate)**

- **Scottish Testaments from 1564**

Wills (testaments) or the granting of a confirmation (the Scots term for probate) were proved in secular Commissary Court from 1564 to 1830s, thereafter the Sheriff Courts, with all surviving records before 1925 digitised and placed on ScotlandsPeople.

**[www.scotlandspeople.gov.uk](http://www.scotlandspeople.gov.uk)**

- **Wills and testamentary records in Ireland**

Most wills (and other probate records) of the Irish church courts up to 1857 were lost in the 1922 fire. Copies or abstracts of up to one-third of the lost wills may have survived. Wills proved since 1922 and calendars of all wills proved (and admons granted) together with those that survive since 1858 are available at the National Archives, Dublin

**[www.nationalarchives.ie/genealogy1/genealogy-records/wills-testamentary-records/](http://www.nationalarchives.ie/genealogy1/genealogy-records/wills-testamentary-records/)**

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