



Probate Records

Introduction

Nottinghamshire Archives holds probate records from the 16th century until the mid-twentieth century. The term probate means 'approval by a competent court': that the will and testament of a deceased person are lawful and valid, and that the will has been 'proved'. The executors are then able to carry out the terms of the will.

Wills – what are they?

The following are the main types of probate documents held at Nottinghamshire Archives:

- **Will and Testament:** these are usually combined in the same document. They provide details on the disposal of property and possessions (the estate) of a person (the testator) after they have died. They might include details of land, money or possessions, and the names of family members and others who were to receive them.



- **Probate Bond:** when a will was made, an executor (male) or executrix (female) would be named and was the person responsible for carrying out the

terms of the will. The executor would agree to carry out the wishes of the deceased person, and to make an inventory of their goods. The agreement that the executor signed is called a probate bond.

- **Codicil:** if the testator wished to alter their will, they could write a codicil. This confirmed that the will remained effective, but subject to the alterations made in the codicil.
- **Letters of Administration:** if a person died without leaving a will (i.e. they died intestate), or the executors named in the will could not be traced, then a friend, next of kin or creditor could apply to the probate court for a letter of administration (admon.). This enabled the person to provide an inventory and to divide the estate. To ensure that this was carried out, the court would demand that the person sign a bond. In practice the bond is the only document to survive at Nottinghamshire Archives – there are no actual letters of administration.
- **Inventory:** a list of all the possessions of the deceased – their moveable effects, or 'goods and chattels' – but not land or buildings. This could include household furniture, farm stock or crops from harvested land. They would also include an estimated value for each item. The inventory was usually compiled by two reputable neighbours of the deceased and submitted with the will to the probate court. It is also possible for there to be

inventories with letters of administration.



- **Probate Act Book:** these list all wills and admns dealt with by a probate court. They are listed in date order.

In addition, the following probate records held at The National Archives may be of interest:

- **Death Duty Registers:** from 1796 various taxes have been imposed on estates, now known collectively as death or estate duties. The percentage of estates which were subject to death duties has increased over time. The Estate Duty Office made abstracts of wills and administrations and then calculated the tax to be paid. The registers in which these abstracts were kept are the Death Duty Registers, and survive at The National Archives from 1796 until 1903. Copies are also available on microfilm until 1857 at the Family Records Centre. The wills and admns. come from all courts across the country, but concern only those estates which were subject to death duties. The registers record different amounts of information at different times, but usually give details about the testator, the executors and the beneficiaries, as well as extracts from the will.

Who made a will?

Wills can be useful documents for family historians as they can provide information on

the relationships between individual family members. Although wills were made by the rich and by professionals, they were also made by lots of people who were not wealthy, including farmers, framework knitters and labourers. It is therefore possible that an ancestor may have left a will. It is also possible that an ancestor's relative may have left a will, and named your ancestor in it.

From 1540, men from the age of 14 and women from the age of 12 could make a will and testament. These ages were raised to 21 by the Wills Act of 1837. Wills could not be made by lunatics, prisoners, traitors, heretics or slaves.

Wills of unmarried women and widows are common, but wills of married women before 1882 are not. Married women could not own property until the Married Women's Property Act 1882. Before this date they needed their husband's consent before making a will.

If an individual had not made a written will they could make an oral declaration of their last wishes. If the probate court was satisfied that the declaration made was valid, a record of this declaration would be made as a nuncupative will, and probate could be granted.

Probate was usually granted within one to two years after death. Occasionally probate may have been granted many years after death. Sometimes probate may not have been granted at all if it was not necessary.

How to find a will

In order to find the will you are looking for, it is necessary to know the probate court in which the will was proved.

Wills before 1858

Before 1858 the proving of wills was the responsibility of the church courts. There are several different courts with jurisdiction within Nottinghamshire in which an individual's will may have been proved. The courts were organised in a hierarchical system.

- **The Exchequer Court of York: the Archdeaconry of Nottingham:** this was the principal court in the diocese of York. Wills proved in the Archdeaconry of Nottingham are divided into one of four deaneries: Nottingham, Bingham, Newark and Retford.

Nottinghamshire Archives holds:

- wills, admns. and bonds, for all four deaneries, 1589 – 1858;
- inventories, c1688 – c1750 (reference: PR/NW)

A card index is available for these wills, arranged alphabetically by surname. The wills themselves are available on microfiche, arranged according to deanery. The booklet *How to Find Archdeaconry Wills on Fiche* explains which parish is in which deanery. Within each deanery they are arranged according to the date probate was granted.

Nottinghamshire Archives also holds Probate Act Books, which list wills proved in the Archdeaconry (reference: PR/NV):

- Nottingham and Bingham deaneries, 1705 – 1858;
- Retford deanery, 1719 – 1858;
- Newark deanery, 1735 – 1858.

Register copies of wills often survive in probate registers, so if there is no surviving original will (especially before c1630) then there may be a copy in the probate register. Probate registers for the period 1389 – 1858 are held at the Borthwick Institute in York, and are available from 1267 until 1500 on the British Origins web site at <http://www.britishorigins.com>.

The following are printed indexes to the register copies. These indexes are available in the Nottinghamshire Archives reference library:

- *Wills in the York Registry 1389 – 1688*, (Yorkshire Archaeological

Society Record Series), Vols. 6 – 89 (various volumes held)

- *Calendar of Nottinghamshire Wills in the Yorkshire Registry 1514 – 1619* (1890), which extracts the Nottinghamshire wills from the above volume
- *Calendar of Nottinghamshire Probate Records, 1688 – 1731* (typescript)
- **Peculiar Courts:** these courts had jurisdiction over small areas of the county, usually a small group of parishes but sometimes just a single parish or manor. Peculiars were independent of the jurisdiction of the Exchequer Court.

Nottinghamshire Archives holds wills for the following peculiars:

- Manor of Gringley on the Hill (PR/G), 1739 – 1858
- Manor of St John of Jerusalem (PR/JW), 1646 – 1791
- Peculiar of Kinoulton (PR/K), 1758 – 1842
- Manor of Mansfield (PR/MW), 1640 – 1857
- Peculiar of Southwell (PR/SW), originals: 1506 – 1841; register copies: 1530 – 1858

In addition, there are some records for:

- Manor of Edwinstowe and Clipstone, 1520 – 1833
- Manor of Ossington (copies), 1729 – 1755
- Manor of Rufford Abbey, 1641 – 1767
- Manor of Skegby and Teversal, 1721 – 1858
- Dale Abbey, 1753 – 1856

A card index is available for all of these wills, arranged alphabetically by surname. This index also includes references to wills deposited privately from other sources. The original document will need to be ordered from the strong room.

The following peculiar courts covered some Nottinghamshire parishes. Their records are held at the Borthwick Institute, and are available on <http://www.britishorigins.com>:

- Peculiar of the Dean and Chapter of York, 1321 – 1857
- Prebend of Apesthorpe, 1557 – 1844
- Prebend of Bole, 1546 – 1847
- **Prerogative Court of York:** If an individual held land or property in more than one archdeaconry or diocese, then their will would be proved in the Prerogative Court based in York.

This court had jurisdiction over the entire ecclesiastical province of York, and was also more prestigious than the local Courts. Therefore, some (usually wealthier) people had their wills proved in this court because of its superior status.

The original wills (1389 – 1857) are held at the Borthwick Institute, but they are also included in the Probate Act Books (reference: PR/NV) at Nottinghamshire Archives.

A card index for these wills covering the years 1803 – 1858 is available at Nottinghamshire Archives. It is arranged alphabetically by surname.

- **Prerogative Court of Canterbury:** If an individual held land or property in more than one province, then their will would be proved at this court. This was the most superior court in the country, and so certain very wealthy people had their wills proved here because of its status.

Wills for this court (1383 – 1857) are held at The National Archives. Note that during the Commonwealth (1653 – 1660) all wills in the country are held with the records of this court. The registered copies are available on The National Archives' Documents Online

web site at

<http://www.nationalarchives.gov.uk/documentsonline>.

Wills after 1858

The Court of Probate Act of 1857 brought an end to the church system. From 12 January 1858 all wills have been proved in a centralised civil probate system. Wills were proved either at the Principal Probate Registry in London (now the Principal Registry of the Family Division), or at a district probate registry.

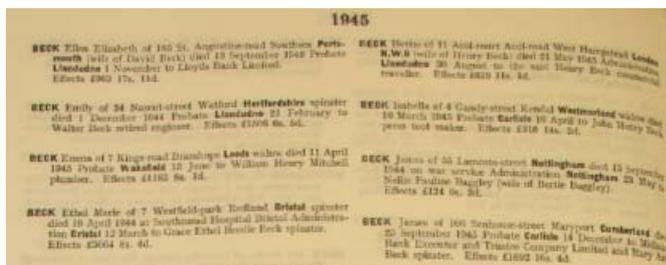
If the will was proved at the Principal Probate Registry, the original wills are held at the Principal Registry of the Family Division.

If the will was proved at the district probate registry, that registry kept the original will, made a register copy, and also sent a copy to the Principal Probate Registry. Therefore, the Principal Registry of the Family Division should hold either the original or a copy of all wills, and each district probate registry should hold the wills proved at that registry. The Nottingham Probate Registry covered the whole county of Nottinghamshire.

- **National Probate Calendar:** this calendar is arranged by year and, within each year, lists alphabetically by surname all the individuals whose wills were proved that year, or for whose estates letters of administration were issued. The calendar includes everybody in England and Wales, and gives the following details:
 - Deceased's name
 - Date of death
 - Where the will was proved
 - When the will was proved
 - The names of the executors or administrators
 - The value of the deceased's estate

The calendar is valuable in tracing where and when a will was proved.

Nottinghamshire Archives holds a copy of the calendar on microfiche from 1858 until 1943, and in volumes from 1944 until 1968.



- **Nottingham Probate Registry Office Copy Wills:** Nottinghamshire Archives holds register or office copies of wills proved in the Nottingham Probate Registry, 1858 – 1939 (ref: P/ND 1). The National Probate Calendar should be used to establish the date and the place of probate as Nottingham.
- **Nottingham Probate Registry Grant Books:** Nottinghamshire Archives holds volumes listing wills and admns., (ref: P/ND 2). However, these do not tend to record much more information than what is given in the National Probate Calendar.

For wills proved outside Nottinghamshire or in Nottinghamshire after 1939, the appropriate district probate office or the Principal Registry of the Family Division in London should be visited. A postal application service is also available. Applications should be sent to the York Probate Sub-Registry.

Useful Addresses

Borthwick Institute

University of York
Heslington
York
YO10 5DD

Tel: 01904 321166

Web Site: <http://www.york.ac.uk/inst/bihr/>

Family Records Centre

1 Myddelton Street
Islington
EC1R 1UW

Tel: 020 8392 5300

Email: enquiry@nationalarchives.gov.uk

Web Site:

<http://www.familrecords.gov.uk/frc>

The National Archives

Kew
Richmond
Surrey
TW9 4DU

Tel: 020 8876 3444

Web Site:

<http://www.nationalarchives.gov.uk>

Principal Registry of the Family Division

First Avenue House
42-49 High Holborn
London
WC2A 2LL

Tel (switchboard): 020 7947 6000

Web Site: <http://www.hmcourts-service.gov.uk>

York Probate Sub-Registry

Postal Searches and Copies Department
1st Floor
Castle Chambers
Clifford Street
York YO1 9RG

Tel: 01904 666777

Fax: 01904 666776

Web Site: <http://www.hmcourts-service.gov.uk>

Further Reading

The following may be of interest:

J S W Gibson, *Wills and Where to Find Them*, (Chichester, 1974)

A J Camp, *Wills and Their Whereabouts*, (Canterbury, 1963)

Karen Grannum and Nigel Taylor, *Wills and other Probate Records*, (London, 2004)

Mark Herber, *Ancestral Trails: the Complete Guide to British Genealogy and Family History*, (Stroud, 2004), chapter 12

Cecil Humphery-Smith, *The Phillimore Atlas and Index of Parish Registers*, (Chichester, 2003), includes maps of probate areas

Testamenta Eboracensia, Surtees Society, 6 Vols., 1836 – 1902, includes transcripts of Nottinghamshire wills, 1316 – 1551

P A Kennedy, *Nottinghamshire Household Inventories (transcripts of Southwell Peculiar inventories, 1512 – 1586)*, in Thoroton Society Records Series, Vol. 22, 1963.