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# **A Genealogist's View of Court Records**

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# Objective s

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- Get one thing out of this presentation that will help you further your search
- Achieve an appreciation of the scope and benefits that can be gained by effective use of court records
- Where to find records
- Go deeper than skin deep in a couple of areas

# Introduction

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- For sake of simplicity, only dealing with US records
- Several levels of courts in the US with different jurisdictions/purposes
- Many types of court records
  - Most used genealogically are probate, naturalization and land and property
- All courts produced records and lots of them

# General Experience

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- Not for the casual researcher
- One of the least available online
- Lots of lawyer wannabees
- Plenty of scams
- Location of records varies from state to state, county to county, city to city
- The largest percentage of records will be at the local level—city and county
- Not a source you want to search first
- Use only to find the “unfindable”

# US Legal System

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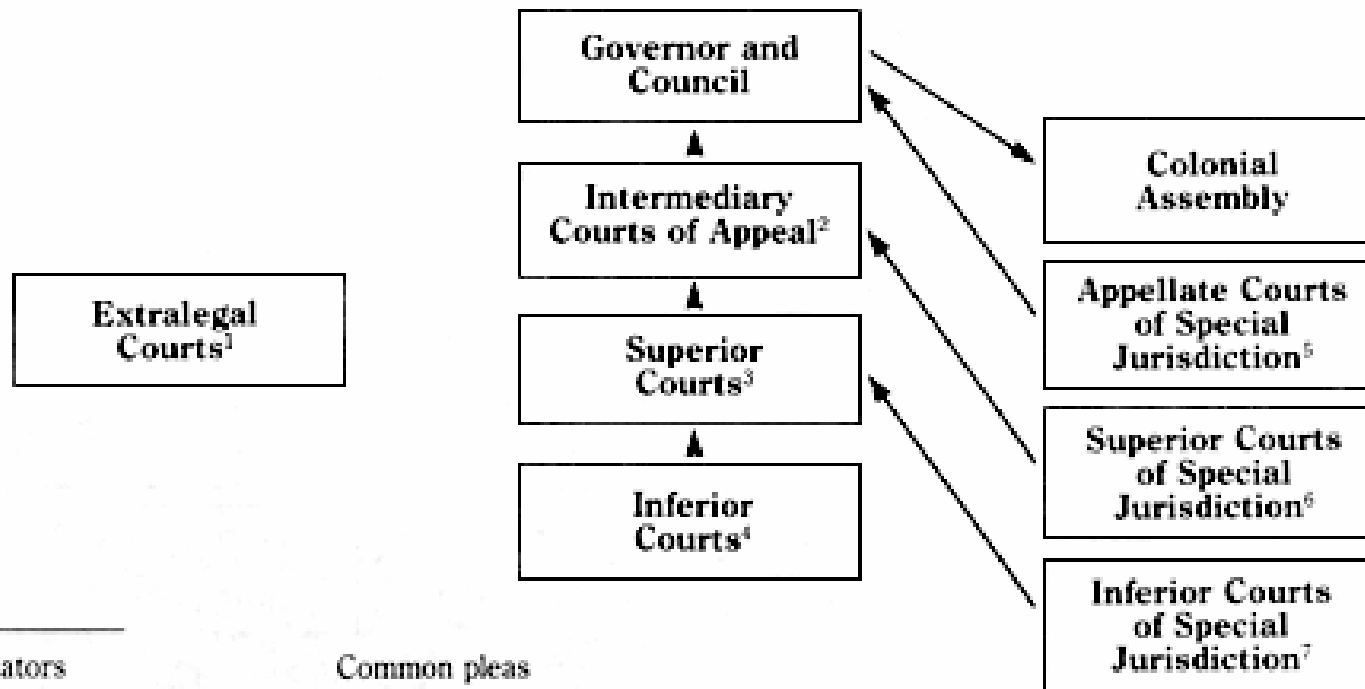
- Based largely on British common Law which means
  - notable for its inclusion of extensive non-statutory law reflecting precedent derived from centuries of judgments by judges hearing real cases.
  - United States typically has "statutes" enacted by a legislature, "regulations" promulgated by executive branch agencies pursuant to a delegation of rule-making authority from a legislature, and "common law" decisions issued by courts

# General Court Types

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- Criminal
- Civil
- Other courts
  - Limited Jurisdiction Courts
  - General Jurisdiction Courts
  - Intermediate Appellate Trial Courts
  - Appellate Courts

## The Colonial Court System, Early to 1775



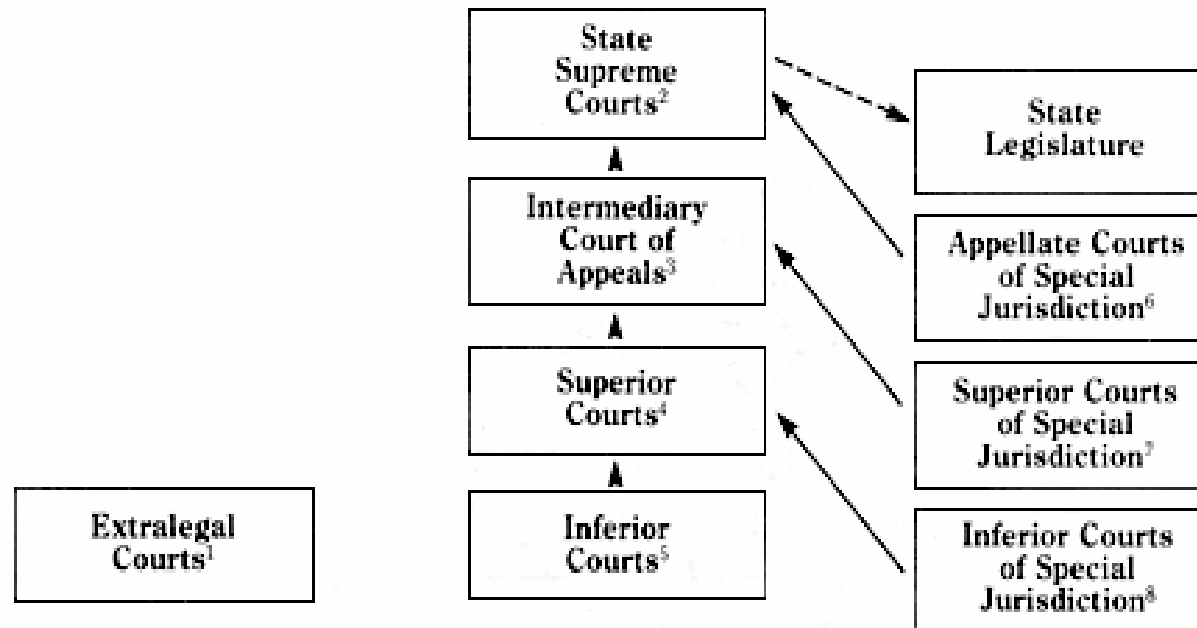
1. Regulators  
Sons of Liberty  
Committees of Safety  
Miners' courts
2. Chief Justice courts  
Court of common rights  
County courts  
Common pleas  
Quarter sessions  
Superior courts  
District courts  
Circuit courts of appeal  
Supreme courts  
Courts of assize
3. District courts  
Circuit courts  
County courts

- Common pleas  
Quarter sessions  
Superior courts  
Recorders' courts  
General sessions  
Civil courts of record  
Criminal courts of record  
Mayors' courts  
Borough courts
4. Mayors' courts  
City courts  
Justice courts  
Municipal courts  
Small claims courts  
Police courts  
Magistrates' courts  
County courts

5. Prerogative courts  
Courts of delegates
6. Chancery courts  
Courts of common right  
Admiralty courts  
Oyer and terminer  
Gaul delivery  
Courts of assize  
Probate courts  
Orphans' courts  
Surrogate courts  
Courts of ordinary  
Courts of exchequer  
Court of claims  
Merchants' courts

- Pie-powder (fair) courts  
Ecclesiastical courts  
Courts martial  
Courts of leftenancy
7. Parish vestry courts  
Courts of examination  
Ships' courts  
Coroners' courts  
Court baron  
Court leet  
Customary courts  
Slave courts  
Courts of conciliation  
Courts of arbitration

## American Court System 1789-Present



1. Miners' courts  
Vigilante committees  
Ku Klux Klans  
Popular tribunals
2. Supreme court of appeals  
Supreme judicial courts  
Supreme court of errors  
and appeals  
Supreme courts
3. District courts  
Circuit courts  
Common pleas  
Quarter sessions  
Superior courts  
Chief Justice courts  
Courts of Common Right  
Supreme courts

4. District courts  
Circuit courts  
County courts  
Common pleas  
Quarter sessions  
General sessions  
Superior courts  
Recorders' courts  
Civil courts of record  
Criminal courts of record  
Mayors' courts  
Borough courts
5. Traffic courts  
Night courts  
Women's courts  
Mayors' courts  
City courts

- Justice courts  
Municipal courts  
Small claims courts  
Police courts  
Magistrates' courts  
County courts
6. Courts of conference  
Prerogative courts
7. Juvenile courts  
Domestic relations  
Administrative courts  
Land courts  
Chancery courts  
Courts of common right  
Oyer and terminer  
Gaol delivery

- Courts of assize  
Probate courts  
Orphans' courts  
Surrogate courts  
Courts of ordinary  
Courts of claims  
Courts of martial  
Courts of leutenancy
8. Courts of examination  
Courts of conciliation  
Courts of arbitration  
Coroners' courts  
Slave courts (abolished  
1860s)

# Tips

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1. Have a specific objective in mind.
2. Schedule enough research time.
3. Learn what records are available and how to use them.
4. Learn as much as possible about the people you are researching before you turn to court records.

# Onsite Research Lessons

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- Things Might Be Misplaced
- Things Might Be Lost Forever
- Is It Really Gone?
- Do They Speak Your Language?
- Are They Familiar with the Old Records?
- They Might Have Pressing Work
- Do Not Wear White Clothes
- Where Can You Eat?
- Smile, Be Personable, and Make Chit-chat

# **5 Reasons It's Not in the Courthouse**

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- 1. Assuming Documents Are at a Specific Courthouse**
- 2. Documents Have Been Stored**
- 3. Records Have Been Relocated**
- 4. Records Have Been Lost or Destroyed**
- 5. Courthouse Staff**



# **Probate Court Research**

# Will Examples

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"To my wife I leave her lover, and the knowledge that I wasn't the fool she thought I was. To my son I leave the pleasure of earning a living. For 25 years, he thought that pleasure was mine. He was mistaken. To my daughter, I leave \$100,000. She will need it. The only good piece of business her husband ever did was marrying her. To my valet, I leave the clothes he has been stealing from me. To my partner, I leave the suggestion that he take some other clever man in with him at once if he expects to do any more business...."

# Probate Process

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- Person dies, will found, executor asks court to open case
- Docket number assigned
- Estate is inventoried
- Debts and taxes paid
- Remaining amounts distributed per will instructions or according to intestacy laws of state

# Probate Records—Key Words

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## Probate

- Main Entry: **pro·bate**  
Pronunciation: 'prO-"bAt, *British also* -bit  
Function: *noun*  
Etymology: Middle English *probat*, from Latin *probatum*, neuter of *probat*, past participle of *probare*
- **1 a** : the action or process of proving before a competent judicial authority that a document offered for official recognition and registration as the last will and testament of a deceased person is genuine **b** : the judicial determination of the validity of a will
- **2** : the officially authenticated copy of a probated will
- In American: the legal process of settling a dead person's estate: specifically, distributing the decedent's property

# Probate Records—Key Words/Phrases

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- Will or last will and testament
- Testate or Intestate
- Executor or Executrix
- Probate packet

# What Does the Probate Tell You?

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- Estate settlements may tell you more than just what appears on the surface.
- Inventories may provide clues as to occupation, financial status.
- The individual buying property at a “steal” from an estate may be a surviving spouse, even if the records do not list the person in that capacity.
- Individuals to whom your ancestor lent money may be relatives---or they may not. Use these names as clues.
- When you do not know what a word or phrase means, look it up. This was helpful here with a “frow” and the “deed of trust” which could have been misinterpreted.

# Where Do You Find the Records?

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- Local courts
- Some found at township level
- Older records
  - Microfilmed
  - Genealogical societies
  - Books
  - Historical Societies

# Finding Court Locations

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- Red Book
- Handybook for Genealogists
- USGenWeb.org
- FHL Reference Guides
- Search Engine search

# How Do I Use the Records?

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- Look for an Index
- Try to understand how the records were organized remembering that it might have changed over time
- Take a camera along

# References

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*The Source: A Guidebook of American Genealogy*, edited by Lou Szucs and Sandra Luebking.

[www.ancestry.com/rd/prodredir.asp?sourceid=831&key=P1026](http://www.ancestry.com/rd/prodredir.asp?sourceid=831&key=P1026)

This provides additional information on the probate process and a summary of records across the United States.

*Ancestry's Redbook: American State County & Town Sources*, edited by Alice Eichholz

[www.ancestry.com/rd/prodredir.asp?sourceid=831&key=P2113](http://www.ancestry.com/rd/prodredir.asp?sourceid=831&key=P2113)

This reference provides specific information for each of the fifty United States.

Appropriate County USGENWEB Page

<http://www.usgenweb.org/>

Browse to your state and county of choice.

State Archives Website.

[www.ancestry.com/rd/prodredir.asp?sourceid=831&key=A636501](http://www.ancestry.com/rd/prodredir.asp?sourceid=831&key=A636501)

Some state archives actually have early probate records for their states. In some cases, the state archives site contains information about the types of records available at the local level.

Family History Library Research Guides.

[www.familysearch.org/Eng/Search/RG/frameset\\_rhelps.asp](http://www.familysearch.org/Eng/Search/RG/frameset_rhelps.asp)

These state-specific reference guides provide information on the records available in each state. It is possible that the Family History Library has microfilmed records for the areas being researched. These guides are a wonderful reference for each state where you have ancestors.

County Addresses from the National Association of Counties (NACo)

[www.naco.org/counties/counties/index.cfm](http://www.naco.org/counties/counties/index.cfm)

# Mark Bigler

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Mark<sub>I</sub> Bigler voiced his devout spirit in the words of his will. "I most Humbly bequeath my Soul to God my Maker, Beseeching his Most Gracious Acceptance of it." He showed a tender solicitude for the welfare of his "dearly beloved wife Catharine<sub>I</sub>" in the requests to his son to "Keep two Cows for his Mother winter and summer as his own are kept" and to his tenant to harvest her share of the grain and to "Carry it up Stairs for Her". His cherished "plantation . . . containing two hundred and thirty-five Acres [*in*] Pipe Crick hundred and Frederick County" was bequeathed, in accord

with European tradition, to one [his firstborn] son Mark<sub>II</sub>. Named in the will were his other nine children each of whom received specified sums of money, namely: Israel, Jacob<sub>I</sub>, Catharine<sub>II</sub>, Elizabeth<sub>I</sub>, Salme, Phebe, Julianna, Hester and Barbary, and two granddaughters. *Mark<sub>I</sub> Bigler had ten children: three sons and seven daughters. It seems that in all generations Bigler daughters outnumbered sons. No additional wives have been mentioned.*



# **Probate Example**

Recent Probate Case



# **Naturalization Records**

# Naturalization Records

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- Process of becoming a citizen of the U.S.
- Naturalization process has remained a fairly stable one with two major steps:
  - 1) the filing of a declaration of intent or "first papers," and
  - 2) the petition for naturalization or "second papers" or "final papers."
- For the most part, an immigrant could file first papers after having lived in the U.S. for two years
- For second papers after five years.

# Naturalization Records

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- Process created a paper trail
- Important facts to consider:
  - Immigrants not required to become citizens
  - from 1790 to 1922, a wife was automatically granted citizenship when her husband was naturalized

# Naturalization Prior to 1906

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- Papers do not contain as many details as most of us would like. They contain:
  - Name of the immigrant,
  - Country that they forswear their allegiance to
  - Town or court where the naturalization took place
    - Declaration and petition could be filed in different courts
  - Name of a witness, often a friend or relative
- Records filed and maintained on a local level, often at county courthouses

# Naturalization After 1906

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- Federal government took over after September 27, 1906
  - Immigration and Naturalization Service
  - Introduced standard and more detailed forms for naturalization process.
- Additional information added:
  - birth date and place,
  - date and port of departure,
  - date and port of arrival, name of ship,
  - occupation, address,
  - if married, names, ages and birthplaces of wife and children as well as the year and place of marriage

# Where to Find Naturalization Sources

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- Local, federal or municipal courts check with courthouses as found in RootsWeb's U.S. Town/County Database:  
<http://resources.rootsweb.com/cgi-bin/townco.cgi>
- General compiled sources such as the FHL Catalog:  
<http://www.familysearch.org/Search/searchcatalog.asp>
- National Archives  
[www.archives.gov](http://www.archives.gov)

# Conclusions

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- Researching court records is not for the faint of heart (or mind)!
- It takes a willingness to learn
- Each court area, each state's system has intricacies to become aware of
- Tremendous resource