

# **IN-GENious!**

## **MYSTERIES EXPLAINED IN PROBATE RECORDS**

by **MEREDITH THOMPSON**

In the September 2006 issue of *Indiana Genealogist*, Mary Lou Bevers wrote, "...courthouse records are the very backbone of all genealogical research projects." Included among these are probate records, which can be the most rewarding for genealogists, especially when dealing with the pre-1850 era. They certainly were key to blasting through my brick wall with John Scott.

For a long time I despaired of ever finding out what had happened to my 5th great-grandfather, John Scott. His wife Elizabeth appeared as the head of household in the 1850 census for Hendricks County, Indiana, along with some of their younger children. I suspected he had died sometime after the 1840 census, but I could not find his place of burial in area cemeteries, nor did he have a will filed in the county. I had all but given up when I spotted him in an index to some probate records.

In the 1800's, it was fairly unusual for someone to write a will before they died. That's actually a good thing for genealogists, because when someone did write a will, that will was submitted to the probate court when they died. The person who'd been named the administrator in the will then carried out the

dispersal of the estate according to the will's directions.

Wills did not have to name all the deceased's heirs—for example, the will written by one of my great-great-grandfathers simply said

he left all of his estate to his wife. So unless someone contested the deceased's mental state at the time they wrote their will, there may not have been a lot of records generated by their death (and thus less information to be gleaned by genealogists).

However, if the deceased died intestate (without a will) and they had left behind some kind of estate (either personal property or land), their

heirs would often petition the probate court to settle that estate.

The process of settling the estate sometimes took years and in so doing firmly establishes relationships and gives valuable clues about people and places to research further. For example, when Jonathan English filed a petition in November 1838 to be appointed the administrator for the estate of his father, Mizeal English, his petition noted that Mizeal had left no widow, and that Jonathan was the only son residing in Hendricks

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County. That suggested to me that he may have had heirs in other areas, perhaps back in his New Jersey birthplace.

**TYPES OF PROBATE RECORDS**

Probate records are usually found in probate order books, which records the court's actions as each estate's administrator comes before them. Some actions in probate order books are very short—just a notation that a case is being carried over until next term, or a report that a guardian submitted a claim. Probate records can also be found in “complete” books (which put all matters relating to a single case together, in chronological order).

Some items commonly found in probate records are:

- Relinquishment of administration
- Administrator bond
- Inventory and appraisal of the estate
- Bill of sale for estate
- Sale of real estate
- Guardianship records for minor children

**RELINQUISHMENT OF ADMINISTRATION**

By default, the deceased's spouse had the duty of administering the estate. If they wanted someone else to be the administrator, they had to go to probate court and formally relinquish their responsibility. The relinquishment was usually the first step in the probate process. Not only does it give the genealogist the name of the deceased's widow, but also gives a timeframe of when the person

died.

In the case of John Scott, I got some idea of when he died because his widow Elizabeth went before the probate court in March 1844, relinquishing her right to administer the estate of her late husband and instead requesting that her son Francis Scott be appointed the administrator.

**ADMINISTRATOR BOND**

The administrator was charged with all the duties of the estate, from getting appraisals of the property to making sure that the money was collected from its sale. As such, they were acting as de facto officials of the court, and were bonded.

When Francis Scott paid \$500 to the probate court to be bonded as administrator of John Scott's estate, the bond noted:

“The condition of the above obligation is such that if the above bound Francis Scott will truly and faithfully discharge the duties and trusts committed to him as administrator of the estate of John Scott deceased, and will promptly deliver over to his successors to be appointed by the probate court of said county, should any such successor ever hereafter be appointed, upon reasonable demand and thereof, all such goods, chattels, rights, credits, monies and effects which shall of right belong to said estate, then the above obligation is to be null & void otherwise to be and remain in full force and virtue in law.”

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**INVENTORY AND APPRAISAL OF THE ESTATE**

An inventory of the estate is a list of all the personal items that the deceased owned. The value of each item (as it was appraised by a third party) was also included. For genealogists, the inventory can show how well off the deceased was (especially since it was rare for them to possess actual currency).

It also gives a fascinating glimpse into their personal life. As Lucinda LeBel wrote in the September 2003 issue of *Indiana Genealogist*, the probate records she found for Samuel Musgrave indicated he was in a lot of pain before he died—three physicians had submitted bills to his estate, and a grocery bill that was submitted included the purchase of a lot of whiskey.

Genealogists may think that only the families of rich people went to probate court, but even the most trivial-sounding of items were counted as part of someone's estate. For example, when the estate of Mizeal English was inventoried in 1838, it included 2 pairs of eyeglasses, a pair of mittens and a Bible.

In May 1844, Francis Scott filed an inventory of his father's personal estate, including the value of each item, as they had been appraised by Nathan Davis and Isaac Trotter in April. The inventory of John

Scott's estate included the livestock you might expect for a farmer, as well as the wheat crop that was still growing in his field:

- 1 chestnut sorrel mare~\$35
- 1 sorrel mare~\$15
- 1 roan mare~\$15
- 1 horse colt~\$10
- 1 red cow & calf~\$7
- 1 brindle cow & calf~\$6
- 1 black cow~\$6
- 1 black cow~\$4
- 1 calf~\$1
- 16 sheep~\$12
- 1 fat hog~\$3.12 1/2
- 1 lot of hogs~\$18
- Flax~\$3
- Hog~\$.50
- 4 axes~\$3.50
- 1 hand saw~\$1
- 1 auger~\$0.37 1/2
- 1 drawing knife~\$0.25
- 1 [illegible] & iron wedge~\$0.75
- 1 bell~\$0.25
- Sole leather~\$0.25
- Farming utensils~\$1.50
- Cooking vessels~\$5.50
- 1 rifle gun~\$5
- 1 man's saddle~\$6.75
- Kitchen furniture~\$2
- 1 weaving loom~\$2
- 3 beds & furniture~\$12
- 2 chairs~\$1
- Spinning wheel~\$0.75
- Wheat in the field~\$7

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The inventory also included a list of the I.O.U.'s John Scott had in his possession, for a total of nearly \$180.

**BILL OF SALE FOR ESTATE**

The bill of sale is a listing of what each item in the estate inventory actually sold for at the public auction, along with the name of the person who bought each item. Genealogists should pay close attention to the names of the buyers, as they are often the deceased's friends and neighbors, if not their own relatives.

The bill of sale Francis Scott presented to the court showed that the public auction of his father's personal property had only netted \$24. Most of the items were sold at only a fraction of their appraised value. Elizabeth Scott bought back several of the items from her own household, including the pots and pans, the kitchen furniture and the wheat in the field.

**SALE OF REAL ESTATE**

If the deceased owned land, that land was also sold as part of the estate. For genealogists, this meant the legal description of the land (and its estimated value) was given, along with a list of all the heirs (including daughters and their husbands). The sheriff was usually dispatched to summon the heirs to court, and those who failed to answer the

sheriff's summons were noted.

For Lucinda LeBel, the probate records she found in Clinton County for Samuel Musgrave gave the ages of all his children and the information that four of his daughters were residing in Tippecanoe County. Be-

cause the case dragged on for several years, it also noted that Musgrave's widow had remarried and gave the name and location of her new husband—enabling LeBel to track down a female ancestor who might otherwise have gotten lost in the records.

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**GUARDIANSHIP RECORDS**

If the deceased left behind children under the age of 21, probate records may include the

appointments of legal guardians to represent their legal interests, especially concerning the sale of real estate. The guardian was male (women could not be appointed as guardians, even for their own children) and was frequently a neighbor or relative of the deceased. The petition for guardianship often included the child's age.

In the case of John Scott, I was lucky enough to already know the names of his children and their birthdates from an old family Bible. But several of the children were missing from the 1850 census, so finding them in

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the probate records helped me pin down when they had died or otherwise disappeared from records.

**FINDING PROBATE RECORDS**

Mary Lou Bevers' article mentioned the downside to looking at courthouse records: "Sometimes the records most important to genealogists are covered with dirt, and either in the courthouse attic or basement, often with poor lighting and no heat or air conditioning."

Court records are also among the least likely to have been indexed or transcribed and put on the Internet. Luckily, several Indiana counties have had part or all of their court records microfilmed.

This microfilm is available at the Indiana State Library, as well as through Family History Centers, and may also be available at local libraries. If you can't get to one of these repositories to do the research yourself, consider getting another researcher to do the searching for you.

**EPILOGUE**

I never did find out where John Scott was buried, but I now know for sure that he was buried *somewhere*. Rucker K. Carter was one of the people who stepped forward in 1846 to place a claim against Scott's estate, asking for payment of \$3 for having made his coffin. Because the estate was eventually declared insolvent, the claimants only received a fraction of what they were owed.

As a genealogist I am grateful that the settling of John Scott's estate took so long and went so badly. The probate records generated by that process showed a man who owned a lot of land and personal property, but was deeply in debt, so

much so that when James Trotter bought part of Scott's land at auction in 1845, he immediately turned the deed back over to one of Scott's sons.

I can't wait to find more probate records for this family, so I can see the next part of the story...

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