


**THE INS AND OUTS OF
PROBATE FOR
GENEALOGISTS –
UNDERSTANDING THE
LANGUAGE OF A WILL**

James L. Tanner for Family History Expos

Language of a will

The language of a will written in the 1700s sounds similar to one written today.



No matter how difficult the handwriting, most wills have a “standard” format and you can almost always look for the same words and phrases

Stare Decisis

- Based on English Common Law that relies on prior court decisions to determine how to apply the law in a current case
- Assures everyone that the law will be applied consistently
- Doesn't always work exactly so the law, as applied, changes over time

Modern Will Drafting

- Changes in the wording of a will can result in changes to the law as applied by the courts
- Courts must decide what the new language means, how it relates to previous rulings and how it will affect the law in the future

Will Language uses Unfamiliar Terms

- You may have to work slowly, at first, to understand what is being said
- You may need to use a reference book to decipher the terms and figure out who got what

Back to Black's Law Dictionary

See The Law Dictionary

<http://thelawdictionary.org/>

for words and phrases

Internet Archive

<https://archive.org/>

Free complete text of
Sixth Edition



<https://www.flickr.com/photos/amjandras/496697781/>

Common Provisions of a Will

- A statement of the identity of the testator
- A statement of the testator's intent to make a will
- A statement setting forth the details of the family or people who will inherit the property
- Appointment of an executor or personal representative (depending on the jurisdiction)

Common Provisions of a Will

- Directions to the executor or personal representative
- The bequest, devise and grant of the assets of the estate
- Special provisions for the devises or bequests
- Any other instructions including provisions for minor children and for the maintenance of a spouse
- Signature and witnesses (usually two)
