

MOTHERS, DAUGHTERS, WIVES:



TRACING FEMALE LINES

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Overview: Mothers. Daughters. Wives. Sisters. Granddaughters and grandmothers. The women of our families are only a tick mark in the census until 1850. The moment a woman married, the name she was born with was lost in the married name she took on and – worse from a genealogical perspective – she lost her separate legal identity under the English common law followed in most of America in colonial times and thereafter. There were exceptions (the law in Dutch, Spanish and French colonies was more favorable to married women) but, generally, women had good cause to wish, as Abigail Adams did, that their husbands would “remember the ladies, and be more generous and favourable to them than your ancestors.” But while they are among the hardest of our ancestors, there are ways to trace our female lines – for us as genealogists to “remember the ladies” of our own families.

THE STATUS OF WOMEN

The first thing to keep in mind when trying to trace women is their status under the law. What rights did they have? Under English common law, followed in most of the American colonies and largely incorporated into American law after the Revolution, the legal rights of women depended largely on their age and their marital status.

Minor unmarried women were entirely under the control of their fathers or guardians and gained some measure of legal independence only when they came of age. Those unmarried adult women (included women widowed and divorced) had the legal status of *feme sole* – and that meant they created records in their own names.

Married women at common law had no separate legal existence and had the status of *feme covert* (the marriage state itself was called *coverture*). They were compelled to act in most instances only through or with their husbands, and their rights were limited:

- ✓ **Custody of children:** Early laws routinely recognized the absolute right of the father to custody and control of children born to the marriage.
- ✓ **Contract and debt:** Married women were not able to contract debt on their own but their wages and property were often subject to being taken for the debts of their husbands. Laws protecting her real and personal property from execution

for her husband's debts began in the mid-1850s, but many states did not allow a married woman to enter into contracts in her own name until the 20th century.

- ✓ **Inheritance:** English common law was set up to prefer sons to daughters, though this changed in the colonies much earlier than in England. Women typically had no inheritance rights from their husbands. Often, a mother could inherit from her children only if there were no living spouse, children, siblings or father of the deceased.
- ✓ **Right to go to court:** Married women generally required a "next friend" (legal surrogate) or a husband to be joined as a party in order to sue or be sued, as married women were treated by the law like children or the insane. Typical laws required the husband as a party unless the action was between spouses.
- ✓ **Citizenship, immigration and naturalization:** Women generally acquired (or lost) citizenship based on the status of their husbands, and were subject to deportation if they arrived alone without assets.
- ✓ **Voting rights:** Voting rights were secured to women generally by the 19th amendment to the United States Constitution, effective 1920.

FINDING LEGAL RECORDS OF WOMEN

Despite the limited public existence of women under the law, there are many legal records left by, about or relevant to our female ancestors. In every single case, look not only for the records of the women themselves but also for the records of all of the men in their lives: not just their husbands but also their fathers, brothers, sons, grandfathers, uncles and cousins.

- ✓ **Vital records** of births, marriages, and deaths record those events for women. A mother's maiden name may be recorded on the birth or death record of a child. Her name ordinarily was given to any illegitimate child. But she may also be named on someone else's record: as an informant on a death certificate; as a midwife or attendant at a birth.
- ✓ **Divorce records** may contain complete details including the wife's maiden name, date and place of marriage and place or places of residence. On occasion, full names and dates and places of birth of the children will be included.
- ✓ **Probate and estate records** may contain numerous references to women as wives and daughters in wills, in court records for dower or partition of estates, as executrix or administratrix of a husband's estate, as buyers of items in estate inventories, and in set-asides of provisions while the estate was being settled. Don't overlook the potential that sisters, nieces and granddaughters will be included in estate record as well.
- ✓ **Land records** often record privy examinations of women as to their dower rights. Single women could own land and will appear in deed records on their own. And women who were single or heads of household could obtain land under the Homestead Act of 1862.
- ✓ **Court records** may include criminal cases against women, women as witnesses, suits by women through a "next friend," and their joinder in suits by husbands, as well as bastardy and child support cases.

- ✓ **Immigration records** including passenger lists were grouped by family and listed females by name and, eventually, by relationship.
- ✓ **Naturalization records** begin to name women earlier than we sometimes think. Wives and daughters might be included in a declaration of intent to naturalize as early as the first decades of the 19th century. Women were required to naturalize individually after 1922, as did some women who had lost their citizenship by marrying foreign nationals.
- ✓ **Legislative records** may include petitions signed by women and private laws.

FINDING OTHER RECORDS OF WOMEN

Other records beyond the legal records may point us to our female ancestors as well.

- ✓ Always start with **family records** – what the family knows or has kept or recorded. Everything from notes to interviews to family Bibles, letters, diaries, personal papers and photographs may provide clues.
- ✓ Women are often found in **church records**, as members and congregants. Their memberships were often independent of their husbands. They also appear as godparents and confirmation sponsors. Records of church activities such as bulletins or church histories may record the roles women played in the church.
- ✓ **Cemetery records** record both male and female burials without discrimination. Inscriptions on tombstones, plot ownership and nearby burials all are clues.
- ✓ Women served in the military or with the camps and may be recorded in **military records** under their own names. But women may also be recorded in the military records of their husbands, sons, fathers, and brothers.
- ✓ **Newspapers** commonly reported women's activities especially in social and church news columns. Obituaries of women were common. Legal notices affecting women and naming them were often published.
- ✓ **Census records** begin to list females by name in 1850. They are categorized by age range in earlier censuses unless they were heads of household. Don't overlook those tick marks, though: there's a lot to be found in analyzing the female residents of early households. And remember state censuses as sources; they often contained more information than the federal censuses did.
- ✓ **City directories** frequently recorded single women who owned businesses and widows. In some cases, women in the household were included even if they were the child or wife of the head of the household.
- ✓ For widows with no assets, check for **records of poorhouses or almshouses**.
- ✓ Don't forget **military and civilian pension applications** where they may be named by husbands or apply on their own.
- ✓ **Voter registrations** may exist for women once they were allowed to vote (and that may be very early: think New Jersey!).

RESOURCES FOR FURTHER RESEARCH

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 - Freilich, Kay Haviland. "Was She Really Alice Fling? Righting a Wrong Identity." 88 *NGSQ* 225-228.
 - Ingalls, Kay Germain. "Cherchez la Femme! Looking for Female Ancestors." 88 *NGSQ* 165-178.
 - Lennon, Rachal Mills and Elizabeth Shown Mills. "Mother, Thy Name is *Mystery*! Finding the Slave Who Bore Philomene Dorat." 88 *NGSQ* 201-224.
 - Little, Barbara Vines. "Teasing the Silent Woman from the Shadows of History: Mary Fitzhugh (Stuart) Fitzhugh of Virginia." 88 *NGSQ* 179-200.
18. Salmon, Marylynn. *Women and the Law of Property in Early America*. Chapel Hill: University of North Carolina Press, 1986.
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23. Women of the West Museum. "This shall be the land for women." <http://theautry.org/explore/exhibits/suffrage/>

All URLs verified as of 1 December 2015.