



## ELIZABETH SHOWN MILLS

Certified Genealogist<sup>SM</sup> Certified Genealogical Lecturer<sup>SM</sup>  
Fellow & Past President, American Society of Genealogists  
Past President, Board for Certification of Genealogists

141 Settlers Way, Hendersonville, TN 37075 • [eshown@comcast.net](mailto:eshown@comcast.net)  
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### PROOF ARGUMENT:

#### Parentage of Lavender Mills (c1800–c1859) Rutherford County, North Carolina

No known document provides direct evidence—an explicit statement of fact—for the parentage of Lavender Mills.<sup>1</sup> However, the identity of his father can be established beyond reasonable doubt through indirect evidence gleaned from land transfers and the circumstances under which those transfers were made.

Between 1825 and 1833, an aging John Mills of Rutherford, a farmer on Rotton's Creek (now Rotten Creek in Cooper's Gap Township, Polk County), executed three deeds in which he disposed of the land he had spent more than four decades accumulating. This John Mills was not a land speculator. He was a small-scale farmer, deprived of an education on the colonial frontier, who doggedly accumulated 200 or so acres without resorting to the enslavement of laborers that enriched several of his kinsmen.<sup>2</sup> He appears to have died about 1842, leaving no probate in either Rutherford or Polk.

John's disposals of his land followed the usual pattern of modest-scale farmers who approached old age: landholdings were parceled—equally in size or value—among sons and sometimes sons-in-law. Sometimes the land was gifted. More commonly the deed specified some nominal value. Eventually one son, typically the youngest, would be given a tract outright in exchange for a promise to care for the aging parent(s). That strategy gave sons a start in life and sheltered them from the expenses of probating the parental estate while ensuring that the parents would have a home until their deaths.

This is the pattern of the three documents by which the aging John Mills transferred land to

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<sup>1</sup> Online trees assert various parents for him, but provide no supporting evidence. Censuses provide the following data for the period of his birth: **1820: age 16–18 = b. 1802–4**; see Rutherford Co. p. 392. **1830: age 30–39 = b. 1790–1800**; see Rutherford Co., p. 527. **1840: age 30–40 = b. 1800–10**; see Rutherford Co., p. 323. **1850: age 53 = b. 1797**; see Rutherford Co., NC, Polk District, p. 233, dwelling/family 199 (age 53)

<sup>2</sup> For much other evidence separating John of Rotton's Creek from the other John Millses of Rutherford County, see Elizabeth Shown Mills, "Mills & Associates: Rutherford County, NC, Its Parent Counties (Anson, Lincoln, Mecklenburg, and Tryon) and Its Offshoots (Buncombe, Burke, Henderson, and Polk Counties): Expanded Survey," report to file, 28 August 2018 (expanded 2 November 2021 and 5 September 2022), 171 pp.; archived online at Mills, *HistoricPathways* (<https://www.historicpathways.com/download/MillsRutherfordTryonLincolnSurvey.pdf>). A number of other related research reports about this Mills family in VA, NC, and SC are posted at this same website, under the "Research" tab. The preparation of a proof argument for John's own parentage is in progress.

Lavender Mills and Calvin Garrett Mills—two young men who bracketed him on the 1830 census<sup>3</sup>—via the following string of deeds:

(1)

11 February 1825

John Mills (x) to Lavender Mills, sale for \$30, 50 acres on the **head** of **Rotten’s Creek** of Green River, described as

Beginning at a post oak in the N side of sd creek in or near & above John Mills’ old line, runing S 57 W 114 poles to a white oak, then N 33 W 24 poles to a hictory, then S 33 W 40 poles to a hictory at a branch, then S 33 E 150 poles to a stake, then to beginning ... ‘being part of a tract granted by patent to **Tench Coxe** & conveyed by him to the sd John Mills.’ Witness: **A. Mills** [Ambrose Mills Jr., Esq.]. Recorded 19 May 1825.<sup>4</sup>

The delay of three months between execution of the deed and its delivery to the county court for filing and recording was typical. The deed would be “proved” in court by the acknowledgment of the seller on his next trip into the county seat. If he did not do so, then the buyer (to whom the recording of the deed was most critical) would arrange for at least one of the witnesses to appear at the next term of court to attest the validity of the document.

Four years later, John Mills cut off another parcel of his land via a deed that indirectly tells us something more. After he conveyed part of his land to Lavender, neither he nor Lavender had seen a need to have Lavender’s land surveyed to protect Lavender’s legal interest. The two men simply agreed between them on where the dividing line would be drawn between their two parts. Absolute trust in each other is evident.

The new deed also spoke indirectly to a parent-child relationship without specifying the relationship.

(2)

17 October 1829

John Mills (x) to “Calvin Garrett” [Calvin Garrett Mills], “for the consideration of the Servises Done for the said John Mills by the said Calvin Garett, John gave another 50 acres on **Rotton’s Creek**

beginning at a black gum & pointers on **Gilberts’ old line**, thence S 30 E to the conditional line between the said John Mills & **Lavender Mills** to the old line, then with the old line to the beginning, the black gum & pointers.

“Said John Mills keeps the said land During his life & at his Death the said Calvin Garret or his heirs takes possession.” Witness: John Cave. Filed: 20 March 1830, a five-month delay.<sup>5</sup>

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<sup>3</sup> 1830 U.S. census, Rutherford County, NC, p. 527, lines 13–15: Lavender Mills (30–39), John Mills (60–69), Calvin Mills (20–29). John is missing from the census of 1820. His 1810 household data shows two young males 0–10; see Rutherford Co., p. 121, ostensibly Lavender and Calvin.

<sup>4</sup> Rutherford Co., NC, Deed Book 35:40; imaged, *FamilySearch* digital film 7517767 > image 209.

<sup>5</sup> Rutherford Co., NC, Deed Book 37–38:116; imaged, *FamilySearch* digital film 7517768 > image 64.

Calvin did not fulfill the pledge. He remained in Rutherford through the 1830 census, then moved in the mid-1830s to Georgia.<sup>6</sup>

In the meanwhile, John would sell one final tract of his land—again, to Lavender.

(3)

31 August 1833

**John Mills (x) to Lavender Mills**, sale for \$175, 50 acres on **Rotten’s Creek**, both sides, described as

Beginning on a Spanish oak bush on the foresaid Mills’ own line at the cross paths and runs with Sd path through sd **Mills’s lane** to a poplar at the head of sd John Mills’s lane, thence W to the head of a branch to a conditional line, thence down the sd branch along conditional line between Williams & foresaid Mills crossing the foresd creek with the sd conditional line to the foresd John Mills’ old line, to a red oak, then N to the beginning.

Witnesses: Wyley Laughter, John Lyon. Filed 17 December 1842.<sup>7</sup>

This document presents one striking difference: Unlike the prior deed to Lavender, neither Lavender nor John took this document to the county court for filing. Not for nine years. The 1840 census came and went, John was still alive; but he did not record the deed and Lavender did not demand that it be proved in court to ensure his legal right to the land.

Five months before this deed was ultimately recorded, Lavender acquired the piece of land that John had gifted to Calvin. He did not acquire it from Calvin, however. He bought it—and Calvin’s obligation—from their kinsman Ambrose Mills, Esq. Calvin’s move South to Georgia would have required funds. Often, young men who did not own property acquired those funds by selling to a family member their “interest” in a parental estate. The wealthy Ambrose Mills would have been in a position to buy that interest.

And so, shortly before Lavender filed the deed that he had held for nine years, he executed one more purchase:

(4)

13 July 1842

**Ambrose Mills to Lavender Mills**, sale for \$25, 50 acres described as 50 acres on both sides of **Rotton’s Creek** of Green River:

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<sup>6</sup> 1840 U.S. census, Cherokee Co., GA, p. 174, line 5. 1850 U.S. census, Lumpkin Co., GA, p. 72 (stamped), *verso* dwelling/family 41 (Calvin Mills, 46, farmer \$130 b. NC; Margaret 41 b. NC, Thomas 18 b. NC, Jane 16 b. NC; also see dwelling/family 42 (Adolphus Mills 2 farmer \$0 b. NC, Caroline 22 b. GA, William 1 b. GA). If the 1850 census is correct, then Calvin was born between 2 June 1803 and 1 June 1804.

<sup>7</sup> Rutherford Co., NC, Deed Book 44:391; imaged, *FamilySearch* digital film 7517770 > image204.

Beginning at a black gum and pointers on Gilberts old line, thence S 30 E to conditional line between the said **John Mills** [*sic*] and **Lavender Mills** to the old line, then with the old line to the beginning, ...

'The said John Mills [*sic*] to hold said Land during his life, then the said Lavender Mills or his heirs take possession.' Witnesses: Stephen Coward and Claton Brown. Filed 13 July 1842.<sup>8</sup>

One conspicuous error exists in the fourth deed: the phrase, "the said John Mills." John Mills had not been mentioned previously in that document. It is clear from the context that the scribe who penned the document was copying from an earlier deed. The description of the land itself identifies the deed from which it was copied: the 1829 donation from John Mills to Calvin.<sup>9</sup>

Lavender's filing of the unrecorded 1833 document on 17 December 1842 was likely triggered by John's death. John has not been found on record thereafter.

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<sup>8</sup>Rutherford Co., NC, Deed Book 44:326; imaged, *FamilySearch* digital film 7517770 > image 172.

<sup>9</sup>The scribe was likely Ambrose himself, given his years of service as a county justice. Ambrose filed the document the same day it was drafted and his verbal acknowledgment was accepted by the clerk without waiting for the next term of court. Rutherford Co. NC, Clerk of Superior Court Minutes, County Court, 1838–1844, p. 348, for Ambrose's status as a county justice, and 345–78 for July term of court; imaged, *FamilySearch* digital film 7640781 > images 203–21.