



# Finding Your Landless Ancestor

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According to E. Wade Hone over eighty-five percent of Americans owned or leased land (E. Wade Hone, *Land & Property Research in the United States*, Ancestry, Inc:1997, p. xiii.) Based on this information, then only about 15% of our American ancestors were landless. So why is it always

our folks who do not have land?

## **We should really determine if the ancestor is landless.**

Examine available census records noting real estate values or later records for land ownership indication.

Examine Deed Index Books for the family within a reasonable range of years. You should look for both purchases and sales of land.

Estate Records may also indicate that an individual received a parcel of land as an inheritance. A record of this property would only be created when the property was sold or given to the next generation.

## **We may have an ancestor without land.**

### **Chattel Mortgages / Trust Deed Chattels**

Deeds of trust and the accompanying mortgages, often help describe the financial condition of the family, the migration path of the family and the related individuals within the community.

In the case of families who did not own property, there are no deeds which provide similar information. However, these families often rented land from or sharecropped with a land owner. These individuals can often be found in Trust Deed Chattel books in their efforts to raise a crop or purchase a mule.

Trust Deed Chattels are the documents recording the pledging of personal assets in return for the purchase price of an animal, a consideration of money, or a set of tools. *Chattel is an article of personal property as distinguished from real property,[land] A thing personal and movable. It may refer to animate as well as inanimate property.* (Henry Campbell Black, M.A. *Black's Law Dictionary*. Abridged Sixth Edition. (St. Paul:West Publishing Co., 1991), p 162.)

These records were ordinarily created when an individual (Promisor) had either purchased an item from another individual or borrowed money (Promisee). The transaction provided protection for the Promisee. If the Promisor was able to complete his financial agreement to the Promisee, then the indenture became null and void. However, if the Promisor could not complete his obligation by the

specified time, then the Promisor lost not only the object of sale, but also his crop of tobacco, which was also pledged.

In these documents can be found records of individuals who were attempting to provide a better income for their families, while participating in a contract that held great peril for their livelihood.

*"... We hereby convey to W.N. Gaines in trust our entire crop of Tobacco of the groth of 1875 supposed to be three thousand pounds. also one sorrel horse mull now in our possesion. this conveyance is made for the following purpose, and none other viz: We are indebted to W.N. Gaines one hundred and twenty-one 20/100 dollars due by us and note of hand January 1st 1876. Now should we well and truly pay the above named debt on or before the 1st day of August 1876. then this conveyance to be void; Should we fail to pay said debt by that time our trust is hereby authorized and empowered to sell said crop of Tobacco and mule either publicly or privately and apply the proceeds of said sale to the payment of said debt after paying the expenses of executing this conveyance, and 6 per cent Interest on the amount above stated from this date.*

*Given under our hand and seal the March 28th 1876.*

*Witnesses*

A.E. Hulett

*Charles (his X mark) Norfleet*

his  
Malachi X Gaines  
mark  
his  
Sam X Gaines  
mark...”

(“Indenture of Malichi and Sam Gaines to W.N. Gaines,” 28 March 1876, recorded 29 March 1876, Trust Deed Chattel Book 1, p. 534, Robertson County Tennessee Archives, Springfield, Tennessee.)

## Tax Lists, Assessment Books - Poll Tax - Capitation Tax

Taxation in the Americas began within the colonies for the crown. By the time, the constitution was written in 1787, all colonies were taxing citizens on property, capitation (head), livestock and other properties. The constitution gave

Particulars	Gravel	Value	S. & S. Co.	Value	Masonry	Carriage	Value	Watches	Value	Wagon	Value	Value	Value	Value
Brick	153	1,530				1	50							
Brick					200									
Brick	143	286												
Brick	130	1,300				1	100							
Brick	78	468												
Brick	1786	9,000												
Brick						1	50							
Brick	118	580				1	100							
Brick						1	200	2	150	1	500			
Brick			1	200										
Brick				100				1	50					

specific authority to the state to levy and collect taxes. For purposes of our discussion, we are interested in the levy on people (poll tax) and other personalty.

The North Carolina General Assembly in 1715 defined taxable persons as free Males over sixteen years of age. Basically a tax list is a register of free males, land owners, and slave owners who by nature of their age or ownership are required to pay taxes to the governmental authority.

## Delinquent Tax List

When an individual did not pay the poll tax or property tax for the year, they were placed on the Delinquent Tax List. In some areas, these lists were published in the newspaper. In some jurisdictions, these records are called the Sheriff's Tax List. These books often reveal additional information about the individual and their tax assessment.

## Tax Release Book or List

Once an individual was placed on the Delinquent Tax List, either they paid the tax, the property or personalty was sold, or the delinquency was released due to reason. Reason for release from the Delinquent Tax List included removal due to age (the individual was above the taxable age), to death (charged to estate), to death (died insolvent estate), to insolvency (unable to pay tax or support self), or to movement (individual moved to another area).

Rose Jordan	Insolvent	1	2
Shilde A	Removed	1	2
Starb Bhuben	Insolvent	1	2
Stoller Henry	Removed	1	2
Thompson Robert	"	1	2
Turner Alex	"	1	2
Washington Sam	"	1	2
Wells Green	Over age	1	2
Wright R. P.	Removed	1	2
Wiley Hiram	"	1	2
Sixth District			
Arthur E. S.	Removed	1	2
Bile Wiley	Over age	1	2
Baldry Jim	Removed	1	2
Browning John	"	1	2
Brown Green	"	1	2
Brown Bill	"	1	2
Batter Kemp	Not twice	1	2
Bonnell Bob	Under age	1	2
Bumming's Gals	Dead no Est	1	2

**DOWER.** An estate for life, which the law gives the widow in the third part of the lands and tenements, or hereditaments of which the husband, was solely seised, at any time during the coverture, of an estate in fee or in tail, in possession, and to which estate in the lands and tenements, the issue, if any, of such widow might, by possibility, have inherited. This is dower at common law. [1856 Bouvier's Law Dictionary, online edition]

## Agricultural Liens

Agricultural liens provide security to a lender against the current year's crop of a debtor for the advancement of cash or supplies to produce that crop.

The standard form for Agricultural liens are found in many contract, annotated code, and statute law books. [William F. Elliott, *Commentaries on the Law of Contracts, Being a Consideration of the Nature and General Principles of the Law of Contracts and Their Application in Various Special Relations*, Volume VI (Annotated Forms), Indianapolis: The Bobbs-Merrill Company Publishers, 1913. Taken from the North Carolina Revisal of 1908, § 1039.]

*Whereas, --- has agreed to made advances to --- for the purpose of enabling said --- to cultivate the lands hereinafter described during the year ---, the amount of said advances not to exceed --- dollars; and,  
Whereas, said --- is indebted to said --- in the further sum of --- dollars now due; now, therefore, in order to secure the payments of the same the said --- do hereby convey to said --- all the crops of every description which may be raised during the year --- on the following lands in --- County, North Carolina, --- Township, adjoining the lands of --- and also the following property, viz.: ----- . And if by the --- day of ---, ----, said --- fail to pay said indebtedness, then said --- may foreclose this lien as provided in [North Carolina Code] (§2054) section two thousand and fifty-four or otherwise, and may sell said crops and other property after ten days' notice posted at the court house door and three other public places in said county and apply the proceeds to the payment of said indebtedness and all costs and expenses of executing this conveyance, and pay the surplus to said ---, and the said --- hereby represents that said crops and other property are the absolute property of --- and free from incumbrance ---. Witness my hand and seal, this the --- day of ---, ----.  
Witness ---*

*/signed/ [seal]*

This is a blank statutory form of chattel mortgage for North Carolina.

*I, ---, of the county of ---. In the state of North Carolina, am indebted to ---, of --- county, in said state, in the sum of --- dollars, for which he holds my note to be due the --- day of ---, 19--, and to secure the payment of the same I do hereby convey to him these articles of personal property, to wit: --- but on this special trust, that if I fail to pay said debt and interest on or before the --- day of ---, 19--, then he may sell said property, or so much thereof as may be necessary, by public auction, for cash, first giving twenty days' notice at three public places, and apply the proceeds of such sale to the discharge of said debt and interest on the same, and pay any surplus to me.*

*Given under my hand and seal this -- day of ---. 19--.*



Bouvier Law Dictionary – 2 Volumes

<https://books.google.com/books?id=XaxRAAAAYAAJ>

<https://books.google.com/books?id=zmc8AAAIAAJ>