

## Joseph Clayton of Nelson County, Kentucky

*Joseph Clayton was born by 1760, perhaps earlier. From St. Mary's County, Maryland in 1777 he went with other area residents to enlist in the Continental Artillery. He fought in the Revolutionary War as a private, taking part in various battles. He was discharged in 1780 and returned to St. Mary's. He married a while after that.*

*About 1785, the couple moved to the Pottinger's Creek settlement in Nelson County, Kentucky as part of the initial wave of Maryland Catholic emigration described by Benedict Webb. The group included St. Mary's neighbors and fellow-members of Joseph's artillery regiment. They remained a close-knit community for decades and even generations.*

*Joseph Clayton was a landowner and farmer. With his wife Eleanor, he had at least eight children who survived to adulthood.*

*He died probably around 1814. His wife survived for a decade or so after that.*

### Background

Edwin Beitzell describes the context of the Marylanders' migration to Kentucky in *The Jesuit Missions of St. Mary's County, Maryland*,<sup>1</sup>

Beginning about 1785 there was a considerable migration of Catholics from the County, particularly from the St. Inigoes section, to Kentucky. British depredations had ruined many of the planters, their sons had been killed in battle, their unworked fields had grown up, their slaves and stock gone, homes and farm buildings burned and still smarting under the persecution endured for three generations, many decided to try a new frontier under freedom's banner. Many of them were entitled to land bounties for their services in the Revolution. However, it was a heart-rending decision to make, to leave the fine land that had so well supported their forbears for 150 years. Mr. J. Edwin Coad of St. Inigoes in an article entitled "The Times That Were" reprinted in the Beacon of April 8, 1897 wrote, " And this is the favored land that hundreds of Kentucky's pioneers left a hundred and one or two years ago or less, most of whom settled in the vicinity of Bardstown and Georgetown (Kentucky) and one or two other localities, going a distance of six or seven hundred miles in wagons, carrying wives and children, and when their destination was reached, found a dense forest to be cleared up, houses to be built, and the land, in the main, no better than that they left behind them, and no fish, oysters or wild fowl to speak of..."

M.J. Spalding, the earliest historian of the Pottinger's Creek settlement, wrote in his *Sketches*<sup>2</sup> in 1844,

The first Catholic colony which emigrated to Kentucky, after those already named, was the one which accompanied the Haydons and Lancasters. They reached the new country some time in the year 1785;

and located themselves chiefly on Pottinger's Creek, at the distance of from ten to fifteen miles from Bardstown. A few of them, however, settled in the more immediate vicinity of Bardstown. The selection of Pottinger's Creek as the location of the new Catholic colony, was unfortunate. The land was poor, and the situation uninviting. Yet, the nucleus of the new colony having been formed, these disadvantages were subsequently disregarded. The new Catholic emigrants from Maryland, continued to flock to the same neighbourhood. They preferred being near their brethren, and enjoying with them the advantages of their holy religion, to all other mere worldly considerations.

Meanwhile, in 1773 Pope Clement XIV ordered the disbandment of the Society of Jesus (Jesuit order), whose priests were the Catholic ministers and missionaries of St. Mary's. The Society remained suppressed until 1805.<sup>1</sup> The Colony of Maryland, though founded with the policy of religious freedom, for considerable periods did not allow Catholics to vote, hold office, or practice their faith openly. It was an unsettled time for the religion as well as the region.

Benedict Webb's 1884 *Centenary of Catholicity in Kentucky*<sup>3</sup> provides what is still the classic reference on the emigration. It includes details of the events, places and colonists, including specifically a section on the settlement at Pottinger's Creek in Nelson County, which became Joseph Clayton's home.

## **Life of Joseph Clayton**

### Origins

There is no known record of Joseph's birth. He lived in St. Mary's County, Maryland, at the time of enlistment in the Revolutionary War<sup>4</sup> To meet military eligibility criteria, he should have been at least sixteen years old at the time of his enlistment in 1777,<sup>5</sup> so born by 1761. He was in the 45+ age group in the 1810 census,<sup>6</sup> which would put his birth date as before 1765.

Neither is there a record of Joseph's early religion. Because the emigrants to Pottinger's Creek were overwhelmingly Catholic,<sup>3</sup> as were his children's marriages, one might suppose that his background was Catholic, but that is only a supposition.

Joseph learned to read and write, at least to the extent of being able to sign his name,<sup>7-9</sup> indicating he had some schooling from his family or others.

### Revolutionary War

Joseph Clayton enlisted in Charles Harrison's Continental Artillery Regiment on February 7, 1777.<sup>5</sup> Notley Mad[d]ox of St. Mary's, a bombardier in the same company as

Joseph Clayton, enlisted the same day.<sup>5</sup> The First Lieutenant of the company, Richard Waters, was from St. Mary's as well. The Regiment was just being formed, and from Virginia origins becoming part of the Continental army.<sup>10, 11</sup> It assembled at Williamsburg, Virginia in the spring of 1777 and did mainly garrison duty at Portsmouth and Yorktown, firing at hovering British ships and intercepting landing parties. The Regiment moved to Valley Forge to join George Washington's army in spring of 1778. From there, it went to various places in Pennsylvania, New Jersey and New York. Various muster and pay records for Joseph Clayton survive, including rosters of company members. He was a matross, "A soldier next in rank below a gunner in a train of artillery, who acted as a kind of gunner or mate. In the U.S., this term was synonymous with private of artillery."<sup>12</sup> He took part in various battles. He was last shown in muster rolls in March of 1780 in Morristown.

Some of Joseph's fellow-members of the Regiment would emigrate to the Pottinger's Creek settlement after the War. Philip O'Brian, listed as a gunner from Anne Arundel County, is included by Benedict Webb as among the original wave of migrants.<sup>3</sup> Phillip and his wife Elizabeth were godparents for the baptism by James Walton, S.J. in Newton, St. Mary's, of Judovic Thompson, son of Joseph and Ann Thompson.<sup>13, 14</sup> Phillip's son John was three lines away from the Claytons in the 1830 census.<sup>15</sup> Thomas Carter, a matross reported to be from Anne Arundel, was father of Barnabas Carter,<sup>16</sup> who would marry Joseph Clayton's daughter Sarah in 1802.<sup>9</sup> James Clarke, also a matross, was a resident of Nelson by 1790<sup>17aa</sup> and member of a family with whom the Claytons would have longstanding ties. He was the father of the James Clarke who was the Claytons' neighbor in 1830.<sup>18</sup>

According to a much later bounty land affidavit<sup>19</sup> by his Kentucky neighbor Peter Blair, Joseph returned from the War at the time when Peter's brother John did. The timing of the two discharges is a little off, but does suggest that Joseph returned to Maryland, as John Blair clearly did.<sup>20</sup>

Joseph received regular pay of 8 $\frac{1}{3}$  dollars a month, with back pay of £111 13s 7d on July 8, 1783,<sup>5</sup> of unclear worth given the multiple currencies in use and the overprinting of paper money to pay for the War effort. On the same date, he received a Military Warrant for two hundred acres of land, the entitlement of all enlisted men who served until the end of the War.<sup>21</sup> Such warrants were abstract promises of a parcel of land to be identified at some later date. The signs are that he sold his warrant to one David Nisbitt,<sup>22</sup> a member of a group of land speculators.<sup>23, 24</sup> The Ohio Military District, which was the only place where eventually Virginia Military Warrants were authorized for use, did not open until 1796, ten years after Joseph had settled in Nelson County, Kentucky. Parcels of land were randomly assigned to warrant holders or their assignees.

The Ohio History Connection reports, "Most veterans did not choose to move to the United States Military District. They often chose to sell their lands without ever seeing them."<sup>25</sup> It was not until 1806 that Cornelius R. Sedam received the actual grant of 1,000 acres of land under warrants signed over by Joseph Clayton and five others.<sup>26</sup>

### Marriage

Presumably Joseph and Eleanor were married in the first half of the 1780s, between his military discharge and the move to Kentucky. There are no known records of the marriage. It seems more plausible that it took place as a Catholic ceremony in St. Mary's, where there are no records for the relevant time and place,<sup>1</sup> than in Kentucky, where there are generally good records that should show it if it had happened there.

### Kentucky

The first wave of Maryland Catholic emigrant settled along Pottinger's Creek in 1785.<sup>3</sup> Joseph Clayton's earliest documented appearance in there was in 1786, when he, Nancy Brients and John Wright witnessed the will of John Brients.<sup>27</sup> In 1789, the Nelson County Court determined, "For reasons appearing to the Court, It is ordered that Joseph Clayton be exempted from the payment of public Levies in this County."<sup>28</sup> It is possible that he received exemptions, in this and other years, for his Revolutionary War service, although such exemptions were unusual, by no means automatic.<sup>29</sup>

"Joseph Claton" appears in the tax books of 1792, with no land, four horses and seven cattle, immediately below the line for Joseph Clark.<sup>30</sup> In 1793 he had sixty-six acres of land – a figure reported more or less consistently afterwards – and the same livestock, with various Clarks on the same page of the tax listings.<sup>31</sup> On October 3, 1793, he was listed on court records as a bondsman for the marriage of George Clarke and widow Sarah Brothers,<sup>32</sup> *née* Lee.<sup>33</sup> In 1794, he registered his earmark for livestock with the County Court: "Joseph Claytons Mark Crop in the left ear & a hole & underbit in the right ear is ord<sup>d</sup>. to record."<sup>34</sup> In 1795, he took a near neighbor, John Mills, to the Washington County Court of Quarter Sessions on a charge of trespassing, seeking damages of £40. The case was settled outside of court by early the next year.<sup>35</sup> On August 2, 1797, "J. Joseph Clayton" signed and recorded an instrument<sup>7</sup> saying that he "hath bargained & sold the north end of his plantation where the said Clayton now lives on" to Charles Duncaster of Washington County, who at the same time assigned the rights to Adam Fogle and Joseph Fogle. The conveyance notes that Joseph Clayton had the land from Charles Ewing, a land investor with many doings in Nelson and nearby Washington Counties. The land abutted property of Philip Mattingly. Witnesses were Charles Hayden and Mary Hayden. The Nelson County Register of Deeds finds

no reference to Joseph Clayton's purchase in its index.<sup>36</sup> The language of the instrument follows the form of a confirmatory deed, with the parties aiming to legitimize an earlier oral transaction, and unclear legal title, after the fact. In 1799, Joseph Clayton, living on the waters of Pottinger's Creek, reported having found a stray yearling steer.<sup>37</sup>

On December 18, 1800, Joseph bought 100 acres of land for £5 from James Witherow,<sup>38</sup> who with Samuel Pottinger obtained an early land patent in the area.<sup>22</sup> The land is described as being "on the west side of the Knob lick fork of Pottingers Creek," later called Rohan's Knob, close to the border of Washington County. It is noted to abut land owned by John Head and land owned by Jeremiah Worthing. In 1801, the tax books<sup>39</sup> show Joseph Clayton with three parcels of land: the first 46 acres, originally entered by William Russell, who was present in the area as early as 1781;<sup>40</sup> the second 150 acres, originally entered by Peter Abell, surveyed in 1783;<sup>41</sup> and the third 100 acres, originally entered by Samuel Pottinger, eponym of Pottinger's Creek. This last parcel is evidently the one purchased late in 1800. An 1882 map (following page) shows Maria *née* Hayden, wife of Joseph's oldest son, John, still living on a part of the land (far right hand side). The location is visible on Fogle Road (named after the assignees under the 1797 document) today on Google Maps.<sup>42</sup> Tax books for the following years generally show Joseph as having 46 acres, more or less. At the 1807 estate auction for George Clark, whose bondsman Joseph was in 1793, he bought a pitcher and a teapot.<sup>43</sup> In 1810, tax books list him on a line next to Sarah Clark, George's widow.<sup>44</sup>

In the 1810 census,<sup>6</sup> Joseph is listed as the head of a household consisting of himself (45+ years old, so b. < 1765), one male 16-25 (b. 1785-95), two males 10-15 (b. 1795-1800) and one male < 10. There is one female, presumably his wife, aged 26-44 (b. 1765-85) and one female 10-15 (b. 1795-1800). Around that time, he deposed that he had seen Adam Fogle "almost every day" after Fogle's release from confinement for the manslaughter of his wife, and that Fogle did not appear to have possession of his reason well enough to make a competent will.<sup>45</sup> He appears in tax books through 1813, again on a line next to Sarah Clark.<sup>46</sup>

The 1813 records provide the last trace of him I can find. By 1816, the tax books<sup>47</sup> indicate that son John Clayton had taken over responsibility for the land formerly taxed to Joseph. Both sons, John and William, reported one male over twenty-one in their households. The partially legible 1820 census image<sup>48</sup> for his son John includes a female over 45, who might or might not be Joseph's widow Eleanor. Between the households of John and William, there are five persons reported engaged in agriculture, matching the number of Joseph's sons, with no apparent place for Joseph. In 1821, the younger Joseph witnessed neighbor Phillip Mattingly's will,<sup>49</sup> a possible sign that the elder Joseph, who was of Phillip's generation and his logical peer, was no longer present. He was certainly

dead by 1823, when the marriage bond for his daughter Catherine noted the approval of "Widow Eleanor Clayton."<sup>50</sup> All in all, I suspect Joseph died in 1814, with a much later reference to his death<sup>19</sup> as being in 1824 confused by a decade. There was no probate process upon Joseph's death. The land was passed on to his children without formal conveyance, and personal property apparently assigned by family agreement.

In 1848, Joseph Clayton's son William filed a bounty land warrant suggesting, accurately or not, that his father had not received or transferred such a land claim. In 1851, eighty-four year old Peter Blair swore to an affidavit in support of the application.<sup>19</sup> The affidavit stated that Peter Blair had a brother, John Blair, who knew Joseph Clayton during the War, stating inaccurately that Joseph Clayton "as He was informed & believes [served] in the Virginia line" and "as he was informed and believes... died on the [blank] day of [blank] 1824," listing the surviving and deceased children, with their families.

### *Eleanor*

There is next to no information available about Joseph's wife, except that the 1810 census reports that she was born from 1765 to 1784.<sup>6</sup> She appears as "widow Eleanor Clayton" in the 1823 marriage bond for her daughter Catherine.<sup>50</sup>

### *Children*

Joseph and Eleanor had at least eight children who survived into adulthood: Sarah (Sally), Mary (Polly), John, William, Thomas, Joseph, Charles and Catherine.<sup>19</sup>

In 1802, Sarah Clayton married Barnaby Carter,<sup>9</sup> son of Thomas Carter,<sup>16</sup> and possibly nephew of early Kentucky explorer Benjamin Carter.<sup>40</sup> Sarah's father signed her bond, which would be sufficient consent for a minor's marriage. In 1808, Mary ("Polly") Clayton married John Ford.<sup>8</sup> In 1816, John Clayton first appeared in Nelson tax books.<sup>47</sup> In 1817, he married Maria Hayden.<sup>51</sup> In 1816 Joseph Clayton (the younger) made his first appearance in tax lists. In 1819, he married Susan(nah) Clark<sup>52</sup>. In 1821, he witnessed the will of Phillip Mattingly.<sup>49</sup> In 1816, William Clayton first appeared in tax lists. In 1821, he married Eliza Nolin.<sup>53</sup> In 1823, "widow Eleanor Clayton" approved of the marriage of Catherine Clayton, her daughter, to Joseph Hayden, according to the testimony of Charles Clayton.<sup>50</sup> The consent indicates that Catherine was under twenty-one at that time. In 1830, Charles Clayton married Barbara Hagan.<sup>54</sup> Nelson tax lists for 1821-39 show Thomas Clayton, most often apparently living with William Clayton.<sup>55</sup> The 1830 Federal Census<sup>15</sup> shows two males age 30 - 40 in the household headed by William, the second presumably being Thomas, unmarried.

The list of heirs in the 1851 affidavit<sup>19</sup> does not include Thomas, corroborating other evidence that he had died by then, without ever being married. The affidavit reports erroneously that Sarah Clayton had no children. It is hard to know what to make of this, because the question of heritage rights was critical to the issue at hand. Perhaps there was a family estrangement. The list include a James Clayton, calling him a son when I think he is a grandson.

Joseph Clayton was stable and law-abiding, an enlisted man of good standing in the War, literate at least to the extent of being able to sign his own name,<sup>7</sup> and a landowner, making him middle-class according to the standards of the time and place.

### **Earlier lineage and future research**

#### Family of Joseph

Joseph's military records indicate that he came from St. Mary's County, at least at time of his enlistment. Our first guess might be that he was born there. Two aspects to that origin raise doubts to me, however. One is that research has unearthed few hints of a pre-Revolutionary Clayton family in that county; while many records were destroyed in the courthouse fire of 1831, my experience suggests that it would be very unusual for *all* traces of a clan to have been eradicated. A second is that Joseph's story, as told so far, leaves the question, how could he, as a rank outsider, have ended up the middle of the incredibly inbred and clannish Catholic families of St. Mary's? The most plausible answer, I believe, is that he *married* into the situation, possibly being introduced into the circle through James Clark, his artillery battalion-mate during the War (see notes on Eleanor's family, below).

Research of Joseph's ancestry involves a complex interplay between circumstantial evidence and emerging techniques of genetic genealogy. For that reason, I have placed it in a separate manuscript, *Origins of Joseph Clayton*.<sup>56</sup>

#### Family of Eleanor

We have almost no hard information about Eleanor Clayton. The 1810 census<sup>6</sup> reports that she was born from 1765 to 1784. The only known record that so much as mentions her given name is the 1824 marriage bond for her daughter Catherine.<sup>50</sup> She was still alive then, probably alive in 1830<sup>15</sup>, and clearly dead by 1848.<sup>19</sup>

I believe that there is a credible case that she may have been Eleanor Cole of St. Mary's County, sister of Henrietta Cole, who became the wife of Basil Hayden, leader of the migration from Maryland to Pottinger's Creek and immediate neighbor of Joseph Clayton. The details of that scenario are covered in a separate manuscript.<sup>57</sup> The ancestors of the Cole family have been well researched and documented.<sup>58</sup>

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