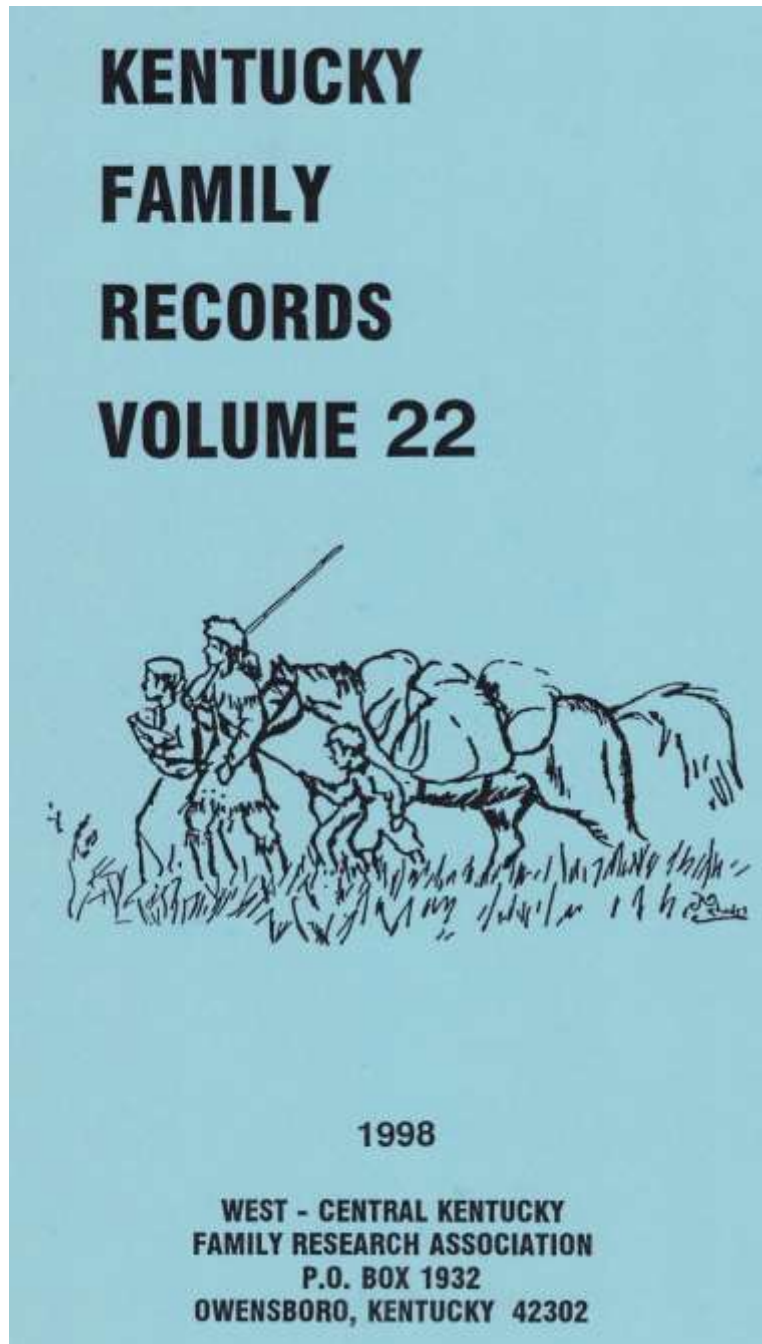


Pioneers Give Historical Depositions



Kentucky Family Records, Vol. 22, West-Central Kentucky
Family Research Association, Owensboro, KY, 1998, pp.31-45:

HISTORY IN EARLY DEPOSITIONS,
OHIO AND DAVIESS COUNTIES, KENTUCKY

TAKEN FROM THE FILES OF T. W. WESTERFIELD (DECEASED)

The following depositions were taken in order to settle land boundry disputes. Early surveys often resulted in overlapping boundry lines. George Mason, whose Virginia home, Gunston Hall near Washington's Mount Vernon, is now a national shrine, claimed about 60,000 acres in this part of Kentucky. The May, Bannister and Company suit against the heirs of George Mason, according to The History of Owensboro and Daviess County by Hugh O. Potter, was fought in Kentucky courts for over 15 years. It was finally settled in favor of the Mason heirs in 1821. More information on this suit and the persons involved can be found in Hugh Potter's book In The Beginning, 1968.

THE DEPOSITION OF PHILIP TAYLOR (25th February, 1807)

May, Bannister & Company plaintiffs against James Adams, the heirs of George Mason other defendants in Chancery; in Ohio Circuit court.

The deposition of Philip Taylor aged about fifty years. Being sworn to give testimony in the above cause deposeth and saith.

by James Adams one of the defendants.

1st. Do you know, a creek upon the ohio called pupp creek?

Ans: I do, The creek so called by me, is a creek emptying into the ohio next above Yellow creek, and near, above a certain pond, on the head of one fork of Yellow creek.

2nd. At what time did that creek receive the name of pupp creek?

Ans: I cannot precisely state the year, but it seems to me to be about seventeen years ago; The creek was so named by the company I belonged to; on account of a bitch in company having puppies when we camped on that creek, and we drowned them in the creek; from what circumstance it was named by us as above, tho I do not remember who first proposed the name.

3rd. Had that a creek a name previous to this time as you know'?

Answer: it appears to me it was before that time called Beaver creek, for I was then trapping on the creek and recollect to have wondered why the creek was called Beaver creek when one of those animals were found there. The time of my trapping was when the circumstance above related happened on pupp creek. The fall before, I had been on Blackfords creek. I did not then know a name for pupp creek, but after I had returned home and conversed with the hunters I understood that creek to be called Beaver Creek.

4. When did you first know the Yellow Banks?

Ans. About the time aforesaid; I saw the place, but no one was settled here; I had heard of it before from the people of Vienna who had come here to move settlers out. When the Yellow Banks was spoken of, we understood by that term the landing at the mouth of this gut where we are, and where the landing is now

The deponent further saith not
Philip Taylor

The above depositions taken at the house of Wm. Smothers at the Yellow Banks this 25th of February 1807 before us two of the Justices of peace for said county.

Anthony Thomson JP
Benjamin Duncan JP.



THE DEPOSITION OF WILLIAM BAILEY SMITH

The deposition of William Bailey Smith, taken at the same time and place and in said cause. The deponent aged about fifty years deposeth and saith.

Questions by James Adams a defendant

1st. Do you know the first creek above Yellow Creek? when did you first know it? and by what name?

Ans: I first knew said creek in spring 1780 and it was then called Beaver Creek. This is the same creek that has since been called pupp creek. I then also knew Yellow creek, it was sometimes called Yellow creek and sometimes Yellow Bank creek. I then also knew Blackfords creek, but it was called Otter creek untill as I understood Joseph Blackford made a station camp on it and hunted there, which was between eighty & eighty two as well as I can recollect, but I am not sure of the year, after that, it was called Blackfords creek.

2. Did you know the Yellow Banks, in those early years? When? And what place did that appellation allude to?

Ans. As early as 1776 I had a note of such a place as the Yellow banks and a description of it, agreeing with the truth as I afterward discovered, in the beginning of March 1780 (eighty) I came here to hunt for an improvment, ever since which time I have considered the place as well known by that name, but the deponent speaking from reputation, says that the Yellow Banks was well known by that name from some time in the year 1776 (seventy six) He further saith, that the whole bank for 3 or four miles was called the Yellow Banks but-when the enquirer gave or received directions, of that place, it had a particular allusion to the place where the landing now is at Smothers's, at the mouth of a gut.

Questions by the plffs.

1. When did you come to Kentucky?

Ans. in 1775 (seventy five). I have been absent three years since, but have always considered Kentucky as my home

2. When first did you see the country of panther creek?

Ans. in fall 1776 or 1777 I passed thro it.

the depot being questioned saith, that he then knew Green river by that name, also panther creek by that name, he then knew the lower falls of Green river which are found below the mouth of panther creek. he then knew the ohio river by that name, and by reputation as aforsaid, had information of the Yellow Banks, and where it might by searching be found.

3rd. Is panther creek the first creek putting into Green river above the lower falls?

Ans. it is the first stream which ought to be so called. Rodes's creek puts into Green river lower down than panther, but it is only a stream that drains some ponds and wet lands that lie near Green river. Though at the head of it there are many good springs, its head is between 8 and 12 miles from the mouth.

4. if one had inquired of you for the Buffaloe crossing on panther creek, what place would you have dericted him to?

Ans. After I became well acquainted with that creek in 1780, I should have dericted such an enquirer to the Big Lick on panther creek; which was a place of great resort for that kind of game. The Buffalo road leading from the mouth of this gut on the ohio passed at said Lick, and went to the country of Rough Creek

5. Do you know how panther creek first got that name.

Ans. I have no doubt it was from two men who I sent to explore the ohio & up Cumberland, having at the mouth of that creek killed a remarkable panther, and they then gave it its present name. Those men would not proceed with the journey I had appointed them, farther than Tradewater, and came back by land. These men were Leonard Helms & Edward Hagan, and this was was about January 1776 (seventy six). They told me they were on said creek about May or June of that year. This deponant saith, that he considers both Panther creek & Beaver creek as well known by those names to persons conversant in this part of Kentucky at least as early as the year 1780. So was Green river and the Yellow Banks. This deponant being interrogated saith; that in 1779 before the opening of the land office, he saw Col George Mason who desired this depot. to undertake the location of his warrants, but the Depot. refused, but then told Mason of panther creek and of the desirable country it passed though. Mason then desired this depot. to give any information he could to his agent which the depot. promised, and did actually give Hancock Lee sd agent the location to begin Masons claims at, the Buffaloe road or crossing alluded to by this depot. in giving said agent the locative description was the crossing aforsd at the Big Lick on panther creek. Lee as I heard came down to see the country himself after that and before he entered the lands.

6. How far was it reckoned in the year 1780 from the Yellow Banks to the mouth of Green river?

Ans: Various opinions, varied on that point from twenty five to forty miles in those early years.

Question 7th by the compts.

Do you know where Blackfords cabbin or station camp was situate?

Ans. this depot. believes he does, but as he is again to be examined on this subject, he defers a pointed answer to this question until that time.

Qu. 8th. Did you hear of the Little Yellow Banks in those early years and where the are?

Answer: as early as 1776 (seventy six). I heard of the little yellow Banks as a place situate about fifty or sixty miles above this place. But since that and about 17 or 18 years ago I heard of another place called Little Yellow Banks, but I do not know precisely its location or distance.

Wm. B Smith

Ohio county to wit

The foregoing depositions of Philip Taylor and Major William Bailey Smith in seven pages anexed together, we have taken at William Smothers's at the mouth of a gut at the Yellow Banks; in the cause in chancery wherein the surverors and representatives of May, Bannister & company are puffs. & James Adams, the heirs of George Mason and others are defts, in Ohio Court 25th of February 1807.

Anthony Thomson JP
Benjm. Duncan JP



THE DEPOSITION OF WILLIAM BAILY SMITH

Aged between 60 and 70 years Taken at his own house in the county of Daviess on the 12th day of november 1817 agrble to a notice now produced to be read as evidence in the suit in chancery depending in the Circuit Court of said County wherein George Medcalf is complt. and Norborn B. Beall & William C. Galt and Matilda A. Gatt his wife Richard A Maupin and Matilda Maupin are defts the said deponant being first duly sworn saith

Question: first by compt Do you know the first creek above yellow creek which emties in to the ohio river about six miles above the Yellow Banks

Answer: yes I first knew said creek in spring of 1780 and it was called Beaver Creek this is the same creek which has since and is now called pup creek

Question by same: was Beaver Creek generally known by that name in 1782

Answer: yes it was well known by that name by the locaters and Hunters in that quarter in 1782 and before that year and until several years after wards when it took the name of Pup creek

Question by same: did you know the yellow banks in those early years where and what place did that appellation alude to

Answer: as early as 1776 I had a note of such a place as the Yellow Banks and the description of its agreing with the truth as I after wards discovered in the beginning of march 1780 when I came to the yellow banks Ever since which time I have considered that place as well known by that Name but this deponent speaking from reputation says that the yellow Banks was well known by that name from some time in the year of 1776 He further states that the hole banks of the Ohio river for three or four miles was called the yellow banks but when the inquirer gave or received directions of that place it had a particular alution to the to the place where the landing now is near the mouth of the gut and against to where John Chrothers stone now stands and this deponent further sayeth that the creek above spoken of which is and was formally called beaver creek and now pup creek emties into the Ohio River about six miles above the Yellow Banks as above described and this deponent further sayeth not

Wm B. Smith

Daviess County To wit

The above and afore going deposition of William Baily Smith was this day duly Sworn to & subscribed before me and wholly writcn by myself given under my hand this 12th day of November 1817

John Piles JP DC

Recd my fee \$1.00



THE DEPOSITION OF MATTHEW ROGERS

The deposition of Matthew Rogers taken at the office of Philip Triplett attorney at Law in the Town of Owensborough (agreably to notice) on the 26th day of June 1827 to be read & used in Evidence in the Suit in Chancery now depending in the Daviess Circuit Court wherein John L. May & Mary P Eppes are Complainers and John Rowan Exor or Trustee of the Estate of Col Joseph H. Daviess is deft. and also to be read as evidence in the Cross bill of John Rowan agst. John L. May & C filed in the Daviess Circuit Court in his answer to the Bill of sd. May & Eppes against said Rowan

Question: by Albert T. Burnley agent for Complts.

Were you or were you not acquainted with the late, Col Joseph H. Daviess about the years 1808 & 1809. & where did he reside Then -

Answer: I moved to near the Yellow Banks in 1806-7 and Col Daviess then lived about two miles above the Yellow Banks on the Ohio River and continued to live there until he removed to Lexington as well as I recollect in the year 1809.

Question by the same: did you ever understand from Col Daviess from whom he purchased the land on which he was then living

Answer: I understood from him he purchased the land from John Lewis acting as agent for John Mays heirs as Executors

Question by Same: Will you state whether you ever heard Col Daviess say he had not paid the purchase money for the land He then lived on. and about what time you held a conversation with him about it.

Answer: At that time before he removed from the Ohio River I fell in conversation with Col J H Daviess and he informed me he was disappointed in the profits of his practice as attorney, it not being so profitable as he had anticipated, he then informed me that he had not paid for the land on which he lived, and said he intended to go into the army with a view of raising money to pay up for the land as he believed he would be more certain to raise the money in that way than from his practice

Question: What do you know about Col Daviess haveing once agreed to let Jesse Potts have one hundred acres off the lower end of the land he had bought of Lewis as agent for Mays Estate.

Answer: In a conversation with Col Daviess he told me he had intended to let Potts have the said 100 acres and showed me where the line thereof was to run and intended the money received of Potts to be applied to the payment of the land he then lived on. but that he had declined the sale to Potts believing that he could raise the money to pay for the land by going into the army and did not like to give his bond for the land to Potts before it was paid for for fear of having his estate incumbered in case of his death in the army

Question by same: Were the Conversations which you have related with Col Daviess before or after the trial of William Smeathers in Hartford for murder

Answer: At the trial of Smothers

Questons by Same: did you ever understand from any person that the land on which Col Daviess lived was paid for. if so state from whom

Answer: I never heard it was paid for until very lately for I am certain that both Daviess and Lewis the agent in the last conversation I held with them informed me the purchase money for the land was not paid and further this deponent Saith not - Sworn to & Subscribed by him

Mathew Rogers

Kentucky Daviess County sct

I Thomas Griffith Justice of the Peace in said County do Certify that the foregoing deposition of Matthew Rogers was taken at the time & place therein mentioned being Subscribed & sworn to in due form by Said deponent Witness my hand June 26th 1827

Thomas Griffith JP DC



THE DEPOSITION OF GABRIEL JONES

The deposition of Gabriel Jones taken at The same time & place of the aforesaid depostion of M. Rogers and to be read & used in evidence in the Same Suit.

Question by Complts: When did Joseph H. Daviess remove from his Corn land tract of land on The Ohio river

Answer: He removed part of his property in 1808 and finally removed himself in 1809

Question by the Same: And when was William Smothers tried in Hartford for murder

Answer: In the year of 1809 as well as I recollect

Question by Complts: were you or were you not overseer for col Daviess in the years 1807 & 1808 & do you remember of his ever receiving or paying out any large Sums of money during those years

Answer: I lived as one of his family and overseed for him those years and do not remember that he ever received or paid out any large Sums of money during either of those Years I considered him Scarce of money as he was unable to advance me a small sum he owed me and had to draw on his brother Samuel for about \$40 dollars for me and further saith not

Gabriel Jones

Kentucky Daviess County Sct

I Thomas Griffith Justice of the Peace in Said County do Certify that the foregoing deposition of Gabriel Jones was taken at the time and place therein mentioned being subscribed and sworn to in due form by Said deponent. witness my hand this 26th day of June 1827

Thomas Griffith JP DC

Magistrats fee paid 5 1.00

Witness -- paid \$1.00



THE DEPOSITION OF THOMPSON M. JONES

The deposition of Thompson M. Jones taken at the office of Philip Triplett at the town of Owensborough on the 16th day of August 1827 to be read as evidence in a suit in chancery now depending in the Daviess Circuit court in which John L. May & Polly Eppes heirs of John May decd and complainants & John Rowan Executor&C of Joseph H. Daviess decd, is defendant and sd Rowan as exer&C is Complainant & sd John L. May & Polly Eppes are Defendants.

Question by complainants May & Eppes: Were you present when there was draft of men made at this place in the year 1808

Answer: I am not certain whether it was in 1808 or 1809 but recollect that I was present at the draft

Question 2nd: Do you recollect what officer was present at the time

Answer: I do not recollect certainly but believe that Cot Joseph H. Daviess & John Daviess who I think was a Capt were both present.

How long have you been acquainted with Mathew Rogers

Answer: I think upward of fifteen years

Question: What has been his reputation for truth & honesty ever since your acquaintance with him

Answer: I have never heard any thing against him & should think his reputation as good as any mans.

Thompson M. Jones



THE DEPOSITION OF WILLIAM P. HUDSON

The Deposition of William P. Hudson taken at the same time & place to be read as evidence in the same suit.

Question by May & Eppes: Will you state what you know of a draft of men being made in the year 1808 or 1809 at Hartford

Answer: there was a call for men either in the year 1808 or 1809. I do not recollect which but think it was before Smothers trial at Hartford & some men were drafted & some volunteered & they were ordered to hold them selves in readynes at a moments warning

Question 2nd: Do you or do you not recollect that Col Joseph H. Daviess about the year 1808 or 1809 raised a volunteer troop of Horse in this country -

Answer: He did, and He mustered them on the day of Smothers trial - and a brother of mine Joined the volunteer company & mustered that day.

Question: How long have you been acquainted with Mathew Rogers

Answer: I have been acquainted with him I think about 18 years. He acted as a magistrate when this was a part of Ohio county & I acted as a constable under him & I think no man in this country stood higher for Honesty & veracity.

William P. Hudson



THE DEPOSITION OF JAMES ROMINE

The deposition of James Romine taken at the same time & place to be read as evidence in the same suit

How long have you been acquainted with Mathew Rogers

Answer: I think upwards of thirty years and have been intimately acquainted with him as I was with any man as I lived in the house with him for some time

Question 2nd: What was his character as a man of Honesty and veracity - ever since you have known him

Answer: His character has ever since I have known him stood as fair as any mans. He acted as a magistrate in the county & as such discharged his duty & gave general satisfaction as a most any one in this county as far as I know

His mark - James Romine



THE DEPOSITION OF DANIEL VITTITOE

The deposition of Daniel Vittitoe taken at the same time & place & to be read as evidence in the same suit

Question by May & Eppes: Will you state what you know of a draft of men being nude in this country some time in the year 1808 or 1809 - and of a volunteer company being raised by Col Joseph H. Daviess about the same time

Answer :a draft took place at the Yellow Banks in the now county of Daviess then a part of Ohio county - I think in the latter part of the year 1808 or the beginning of the year 1809 – and Col Joseph H Daviess attended to the draft I was drafted myself & afterwards volunteered in a Horse company that Col Daviess raised & I think He mustered them on the first day of the Ohio circuit court when Smothers was tried but I did not muster myself as I had no horse then I afterwards Joined them where the company rendezvoused at Hardinsburg Joined them there We had been before ordered to rendezvous at Hardinsburg & I went up with Col Daviess from his plantation where He then lived about two miles above the Yellow Banks to Hardinsburg - and when we were dismissed I think we were ordered to hold ourselves in readiness to march upon a campaign when ever called upon -

Daniel Vittitoe



THE DEPOSITION OF SAMUEL SNYDER

The deposition of Samuel Snyder taken at the same time & place & to be read as evidence in the same suit

Question by Complainants May & Eppes: State what you know of a draft being made of men at the Yellow Banks in the year 1808 or 1809

Answer: I do not recollect what year the draft took place but it was before Col Joseph H. Daviess moved from this county; I was sick at the time & did not attend at the draft but suppose I was drafted as I received orders to attend at the rendezvous at Hardinsburg - I was about moving over the Ohio river and had moved part of my property over & went to John Daviess who I think was then a captain & inquired of him what would be the consequences if I did not attend & He said He would go down with me to his brother Joseph H Daviess & we would see what He said about it which we accordingly did and I did not attend the rendezvous

Question 2nd: How long have you been acquainted with Matthew Rogers & what is his character for honesty & truth

Answer: I have been acquainted with him about forty years & have served with him about six years as assistant Judge in the state of Indiania & I think his character for honesty & truth as good as any mans in our country

Samuel Snyder



THE DEPOSITION OF GEORGE STATELER

The deposition of George Stateler taken at the same time & place and to be read as evidence in the same suit

How long have you been acquainted with Matthew Rogers & what is his character for Honesty & truth

Answer: I have been acquainted with him upwards of twenty years, and I think his character for Honesty & truth as good as any mans - in our country

George Statelar



THE DEPOSITION OF JOHN LEMAN

The deposition of John Leman taken at the same time & place to be read as evidence in the same suit

Question by May & Eppes attorney: Do you know any thing of Col Joseph H. Daviess having raised some men in this county - sometime in the year 1808 or 1809

Answer: I do not know any thing of his raising the men but think that He mustered a company of Horsemen at the court at Hartford when Smothers was tried and recollect observing to John Daviess that if ever Joseph Daviess went into a battle He would be sure to be killed & John Daviess replied that He had often told Jos so himself

John Leman



THE DEPOSITION OF HENRY JONES

The deposition of Henry Jones taken at the same time & place & to be read as evidence in the same suit

Question by Compt: Do you know any thing of a draft of men being made at the Yellow Banks some time in the year 1808 or 1809 & of Col Joseph H. Daveiss having raised a volunteer company of Horsemen at the same time.

Answer: I was not present at the draft but I lived at the Yellow Banks and saw one of the men afterwards who was drafted and I mustered with the company when Col Daveiss mustered them in Hartford and Col Joseph H Daveiss persuaded me to Join the company & I told him I was a poor man & did like to equip myself unless there was a likely hood of them being called for soon - To which Col Daviess replied by God there is no danger of attack that meaning as I then took it that He thought they would be eased out right away

Henry Jones

Question 2nd: Did you ever see Joseph H Daveiss at the Hartford court and in this county after Smother trial

Answer: Yes I saw him at Hartford court and here after Smothers trial

Henry Jones



THE DEPOSITION OF ELISHA ADAMS

The deposition of Elisha Adams taken at the same time & place and to be read as evidence suit

Question 1st: Do you know any thing of a Draft of men being made at the Yellow banks - some time in the year 1808 or 1809 - and of Col Joseph H. Daviess having raised a company of volunteer Horsemen about the same time

Answer: in the winter of 1808 and 9 a draft took place at the Yellow Banks and both my brother & myself were drafted - and afterwards Joined the volunteer company raised by Col Joseph H Daviess & mustered under him at Hartford

Question: are you acquainted with Matthew Rogers - and what is his character for Honesty & truth

Answer: I have known him about twenty years & have always thought him a man of honesty & veracity & never heard the contrary from any person

Elisha Adams

I Thomas Griffith a Justice of the peace in and for the county of Daviess do Hereby certify that the forgoing depositions of Thompson M. Jones. William P. Hudson, James Romine, Daniel Vittitoe, Samuel Snyder, George Statelar, John Leman, Henry Jones and Elisha Adams were duly taken signed & sworn before me at the time and place in the caption of the first deposition mentioned Given under my hand this 18th day of August 1827

Thomas Griffith JP DC

Magistrats fee \$1.00

& Witness .50 paid 4.00



THE DEPOSITION OF DANIEL GRASS

The deposition of Daniel Grass taken at the home of John Daviess in Daviess county on the 8 day of September 1827 to be read as evidence in a suit in Chancery now depending in the circuit court of Daveiss county where in John L. May and Mary P. Epps are complainants and John Rowan Executor of the estate of Joseph H. Daveiss Decd is defendant and by cross bill the said Rowan is complainant and the Said May and Epps are defendants this deponent being first duly Sworn deposeeth and says

Question by John Daveiss Agent for John Rowan: Was you acquainted with Joseph H. Daveiss and where did he live during the time you was acquainted with him.

Answer: I was acquainted with him during his residence in this county he lived on his farm on the Ohio River about two miles above the Yellow Banks

Question by same: Did you ever understand from whom this said Joseph H. Daveiss purchased his lands where he lived

Answer: I understood from Daveiss and from John and Thomas Lewis that the said Daveiss had purchased his land from John Lewis acting as agent or Attorney in fact for Mays heirs or representatives.

Question by same: Will you state all that you know and have understood relative to Joseph H. Daveiss paying for the said land to John Lewis

Answer: I frequently heard Joseph H Daveiss state to his wife that their plantation where they lived was paid for, that it was shure that they had a home that was safe; I further understood from J H Daveiss that he had received five hundred dollars from Joshua Griffith that he either stated that he had paid the said \$500 to John Lewis or that he was going to pay it and I cant - be posative which the said \$500 dollars I understood was to make payment for land where he lived

Question by same: Was you not intrusted with the management of J H Daviess business when he removed from this county and did he not at diferent times communicate to you his plans and arrangement in business.

Answer: he did frequently communicate to me his arrangements in business and I thought very freely

Question by same: Did you ever hear from any person that Joseph H Daveiss offered to sell 100 acres of land at the lower end of the tract where he lived to Jesse Potts

Answer: no I never heard of any thing of the kind and I think if there had been any thing of the kind I would have heard of it as I was a confidential friend and intrusted with the care and management of all of his business hear, and besides I was frequently in company with Potts and feel satisfied that if any such thing had ever existed I would have heard of it.

Question by same: What was Joseph H Daveiss object in moving from this county as far as you understood

Answer: he told me it was to resume his practice as a lawyer that he was removing to Lexington

Question by same: Did Jesse Potts keep a tavern at the Yellow Banks during the residence of Joseph H Daveiss in this county

Answer: I think he did not for Potts purchased the stand where Smothers lived and did not get the stand till after Smothers trial and Joseph H Daveiss started two or three days after the trial to Lexington to live he having only waited his removal for the trial of Smothers as he appeared for him

Question by same: Was you at Joseph H Daveiss after he returned from Smothers trial at Hartford and did you continue there until the said Daveiss started to Lexington and during that time did you see Mathew Rogers at Joseph H Daveiss

Answer: I returned from Hartford at the same time that J H Daveiss did but I went to the Yellow Banks that night to old Mrs Smothers the next morning I went up to Joseph H Daviess to assist him in his fixing to move I continued with him from that untill he started to Lexington and am well satisfied that Mathew Rogers was not there after the trial of Smothers.

Question by same: did you ever hear Joseph H Daveiss express his oppinion of Mathew Rogers and Jesse Potts and what was his oppinion of them as men of truth honest and integrity

Answer: I have heard him express his oppinion of both of them and his oppinion of Potts was that he was if possible rather worse than nothing as a man of no account at all. as to Rogers he thought him a man in whom he could have no confidence and always spoke of him with contempt.

Question by same: what do you know of the funds of Joseph H Daveiss about the years 1807 and 1808 as to money received by him.

Answer: in those years I understood that he received considerable of money at one time I recollect of seeing a large silver tancard that he brought from the Red banks after a court full of dollars, at another time he went to Nashville to court and came back I understood with a considerable quantity of money and I understood that he received five hundred dollars of Joshua Griffith I always found him having money to pay all the demands that was against him; I stated to him at one time that I would have to call on some of my friends to lone me some money he told me that he had some money set apart for Gabrial Jones that he wanted it for him wen it was due and that I could have it if I would pay it to Gabriel Jones it was betwixt fifty and one hundred dollars perhaps about eighty dollars I got the money and afterwards paid it to Gabrial Jones

Question by same: can you believe that Joseph H Daveiss ever left this county for the purpose of going into the army to raise money

Answer: no I cant believe it; for I understood from him that when he went to nashville that it was to see the situation of business for a lawyer at that place I also heard him speak of New Orleans that he had a thought of commencing business there but finally he determined on Lexington and from his own statements to me I am satisfied that he removed there for the purpose of practicing of law at that time there was no war nor was there any army to go into nor for a considerable time afterwards, it is true there had been for many years considerable talk about war some times the depredations that was committed on our rights by see at one time the possession of New Orleans we supposed would have to be taken by force, that these kind of allarms had been experienced for many years before we had a war is well known

Question by same: what have you heard of Mathew Rogers as a man of truth

Answer: I heard a man tell him to his face that he had sworn false I frequently heard this spoken of but do not of my own knowledge know any thing of the truth of it and further this deponant sayeth not

Daniel Grass

[It is possible that the Mrs Smothers referred to in the above deposition was Mary Winters, that]family records list as the second wife of William Smothers.



THE DEPOSITION OF CHARLES DUNCAN

The deposition of Charles Y Duncan taken at the same time and place to be read in evidence in the same suit.

Question by John Daveiss agent for John Rowan: did you make an aplication to Joseph H Daveiss for your father to purchase land of him on the Ohio river and what was his answer

Answer: he told me that he would not sell any land that he had on the Ohio River that he would not take dollars for land there

Question by same:

[Note: This is the last page of the depositions in our files, but the abrupt ending makes it seem likely that there was still more of this deposition in the suit].



From – In The Beginning... Earliest historical and biographical material concerning Owensboro and Daviess County with 1806 map showing original land surveys. Hugh O. Potter (Owensboro, KY: Radio Station WOMI, 1968) p.17:

LAND SUIT PRESERVED HISTORICAL MATERIAL

Less than six months after the Revolutionary War was brought to a close by George Washington's order of April 19, 1783, and while the Owensboro area was a part of Jefferson county, Virginia, Captain Ben Field surveyed a 4,500-acre tract of land for George Mason of Gunston Hall on the north fork of Panther creek.

This survey, dated October 4, 1783, was one of the earliest made in present Daviess county.

Land on the south side of the Ohio river, along Green river and on Panther creek began to attract interest during the late Colonial and early Revolutionary period.

A deposition in the long-fought law suit between the heirs and partners of Col. John Banister and George Mason's heirs revealed that the Yellow Banks had been a well-known place along the Ohio river as early as 1776.

Major William Bailey Smith testified at a hearing in this land case, held on February 25, 1807 in the cabin of William Smeathers, then the sole settler of Yellow Banks, that he (Smith) first saw this place in 1780.

"As early as 1776," he said, he "had a note of such a place as the Yellow Banks and a description of it, agreeing with the truth as I afterwards discovered."

Smith added that in 1779 he saw Col. George Mason who desired him to "undertake the location of his (land) warrants" in this part of Kentucky. Smith declined the assignment but said he told Mason of Panther creek and "of the desirable country it passed through." He also suggested to Mason's agent the location "to begin Mason's claims."

The Ben Field survey for Mason specified that the land had been claimed by Mason "by virtue of a warrant for importation rights." The Thomas Jefferson papers, in referring to a Virginia act to establish a land office in 1778, explained that "for the encouragement of foreigners to settle here, and an inducement to import inhabitants from foreign countries... every person . . . importing any inhabitants, not being slaves, to settle in this (the unsettled part of Virginia) shall in consideration thereof be entitled to 50 acres of waste or unappropriated land for each person so removed or imported..."

Since George Mason claimed approximately 60,000 acres of land in this part of Kentucky it is obvious that he was either very busy importing foreigners during the Revolutionary war period, or obtained his warrants from others who were so engaged.

In December of 1785 John May, who was a part of the firm of May, Banister and Company, had John Helm survey 1,950 acres of land on the Ohio river just east of present Owensboro. May's claim and survey described this land as being "at the Yellow Banks in Nelson county," Virginia.

The various surveys, covering huge tracts of unsettled land, resulted in conflicting claims. Two of the largest of these—the May, Banister and Company claims to 157,722 acres, and the claims of the George Mason heirs—resulted in a law suit which was responsible for much information being preserved about these original land claims, in map and documentary form.

Sometime prior to 1806 this case was instituted in Ohio circuit court. It was finally adjudicated in favor of the Mason heirs in October of 1821 by the Kentucky court of appeals.

The exact location of present Owensboro was an important question in the suit.

In an 1814 answer to a bill of complaint, the Mason heirs contended that the Yellow Banks to which May, Banister and Company land warrants referred was the "upper Yellow Banks, about forty miles from the mouth of Green river." The Masons claimed three of their surveys of 8,000, 8,100 and 8,200 acres each, were at or near "the place called the lower Yellow Banks (present Owensboro) . . . about eighteen or twenty miles from the mouth of Green river."

The Kentucky high court agreed with the Mason heirs on this and other contentions and dismissed the May, Banister and Company suit, "compelling the plaintiffs . . . to surrender their legal title" to the land in question, with the losers being held responsible for the court costs.

Notes of Reference

The letters from A to P inclusive represent the plaintiff's survey of 15,772 1/2 Acres.

The defendant's survey is marked with their initials on the face of this plat.

The Yellow Banks lies twenty poles below the upper corner of May's 1950 Acre survey which corner is marked R.

Blackfoot creek is laid down from actual survey from the mouth up to Allen's corner and from the crossing of Crow line to where it crosses by the Plaintiff's

Report.

Agreeable to an order of the Circuit Court for this County on the day of September 1806. I met at the house of Mr. Lewis on the premises, and the works of John Nelson Esq.



Section of 1806 map of Daviess County showing original land surveys