

THE SERIALS
Pearlette Call

MICHIGAN STATE UNIVERSITY

Vol. 1 Pearllette, Meade County, Kansas, April 1957

No. 1

THE "CALL"

How do you like our name? Is it not suggestive? It is a CALL for YOU to come to Kansas; to Meade; TO PEARLETTE. Heed the CALL and be happy.

OUR COLONY.

For the benefit of those who have not known of our colony from its inception we will give a brief synopsis of its origin and workings:

The idea of organizing a colony in Muskingum County, Ohio, originated, if we are not mistaken, with Mr. Dan. Dillon early last summer. A meeting was at once held in Mr. Dillon's parlor and the society formed, with Mr. John Joblin as president. Meetings were held at short intervals until mid-summer, after which we met every second Saturday evening in the Court House. New members were received at every meeting, the initiation fee being nominal.

During all this time it was hoped by most of the members that enough money could be raised by donations, fairs, festivals etc. to pay transportation charges to Kansas and buy a team for every

fourth family. It was expected that there would be such a rivalry among railroads that our fares would be but a small item.

A committee of three was sent out in October to select a location, and they unanimously reported in favor of our present site.

The fee for each family was fixed at \$52.80 which was to cover all expenses of taking us to our new homes.

Early in the winter the date of our departure was fixed for Feb. 1, 1957.

After the fairs and festivals and mites had all been held; after the donations had all been collected; after the begging had all been done, and we had paid \$1.13 pr 100 on all freight we had in excess of 750 lbs. the 18th of February came — and the ZANESVILLE Colony left with \$1000.00 in the hip-pocket of the treasurer! [P. S. This did not include DENTS UNPAID of about \$50.00]

If there is a more beautiful country than Meade Co. we know it not.

Please notice the advertisement of M. COLLAR, on another page.

CONTENTS

	PAGE
A STUDY OF THE LAWS OF THE OTTAWA INDIANS AS PRESERVED IN THE <i>Ottawa First Book</i> (1850) Theodore John Rivers,	225
With reproductions of the title pages and two pages of laws in English and the Ottawa language, <i>frontispiece</i> .	
"NO PROPRIETY IN THE LATE COURSE OF THE GOVERNOR": The Geary- Sherrard Affair Reexamined David E. Meerse,	237
With portraits of Samuel J. Jones, John W. Geary, Charles Robinson, James F. Legate, William P. Richardson, Samuel D. Lecompte, Daniel Woodson, John Calhoun, and Israel B. Donaldson, between pp. 240-241.	
PEARLETTE: A Mutual Aid Colony C. Robert Haywood,	263
With portraits of Mr. and Mrs. John Jobling, and reproductions of pages of the first issue of the <i>Pearlette Call</i> , April 15, 1879, between pp. 272-273.	
THE SUPPRESSION OF ALLEGED DISLOYALTY IN KANSAS DURING WORLD WAR I Herbert Pankratz,	277
With reproduction of World War I Third Liberty Loan poster, and portrait of Dr. Eva Harding, facing p. 288, and photograph of loyal German-Americans and their wheat threshing rig, facing p. 289.	
THE ECONOMIC HISTORY OF A MIDWESTERN RETAIL STORE, 1911-1934, Robert S. Raymond,	308
With portraits of Scott Raymond and E. G. Green, facing p. 320, and a photograph of the Raymond-Green Furniture Co. store, facing p. 321.	
BYPATHS OF KANSAS HISTORY	329
KANSAS HISTORY AS PUBLISHED IN THE PRESS	331
KANSAS HISTORICAL NOTES	337

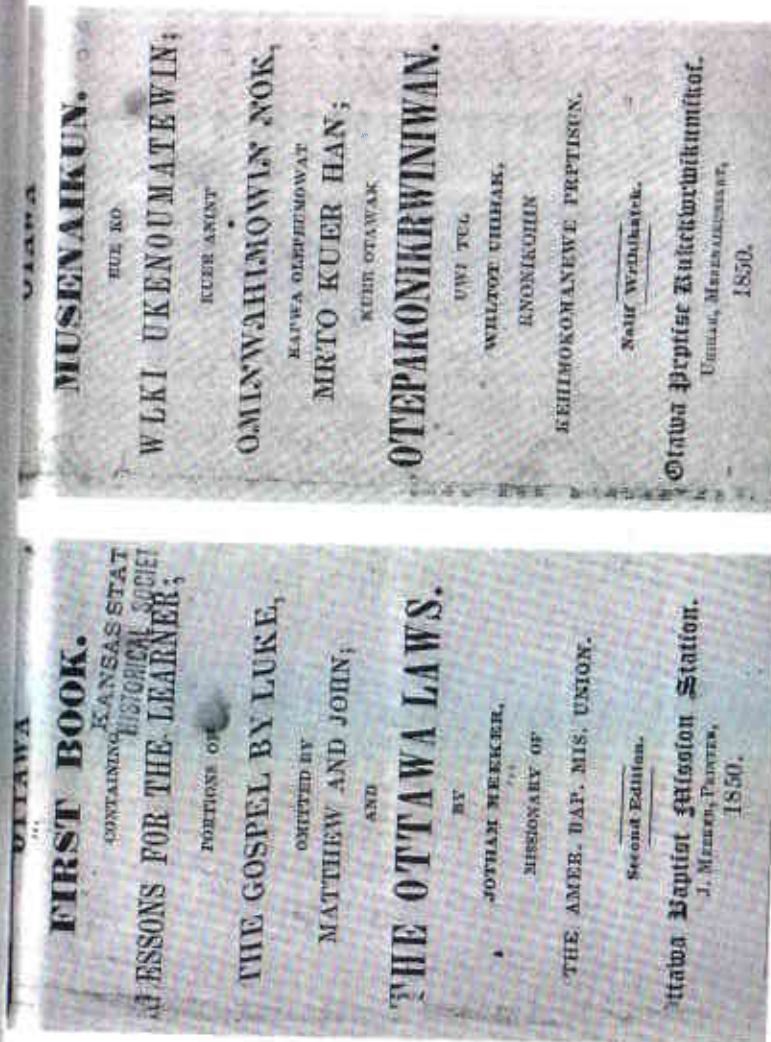
The *Kansas Historical Quarterly* is published by the Kansas State Historical Society, 120 W. Tenth St., Topeka, Kan. 66612. It is distributed without charge to members of the society; single issues, when available, may be purchased for \$1.25 each. Membership dues are: annual, \$5; supporting annual, \$10; life, \$50; patron annual, \$100 or more. Membership applications and dues should be sent to Edgar Langsdorf, treasurer.

Correspondence concerning articles for the *Quarterly* should be addressed to the managing editor. The Society assumes no responsibility for statements made by contributors.

Second-class postage has been paid at Topeka, Kan.

THE COVER

With the coming of the Zanesville (Ohio) colony to establish the town of Pearlette in Meade county, Kansas, early in 1879, came the type and press for publication of its newspaper, the *Pearlette Call*, first issued on April 15, 1879. The first page of this minipaper is reproduced on the cover, and the remaining 11 pages of the 12-page issue appear between pp. 272-273.



The *Ottawa First Book* (1850) is a pocket-sized, black, hard-covered book, 3½" x 4½". Its printer, Jotham Meeker, gave it two title pages—one in English and one in the Ottawa language.

O T T A W A L A W S.

STEALING TO KILL.

1. If any person shall steal and kill an animal, upon conviction thereof the price of said animal shall be by him paid to the owner; and half the price he shall pay into the treasury.

THEFT.

2. If any person shall steal an article of property, when it is known the stolen article must be taken. If the owner, upon seeing it, shall discover that it has not been injured, he must take it back. If it be injured, the thief shall pay one price and a half of the article. The full price must be paid to the owner, and the half price into the treasury.

O T T A W A

O T E P A K O N I K R W I N I W A N .

K E M I N U T A K R W I N .

1. Kelpin uwau uwukanum kemimnat kekruinint tul, rpetrntakosit uwi uwukan tuapawa tprnmat; menuwaapito rpetrntakosit tuuhikatr lonca wukumikof.

K E M O T I W I N .

2. Kelpin uwau krko kimotit tipinuwrwisiwin, kekruinint tul, kwauk tootapinekatr ewi kakemotintif—okuwapuntan tul tprntuf. Kelpin kepwa nilwinahhikatr, uwi tprntuf okuotapinan. Kelpin tul kepunahhikatr apitik okutipuan neloitf rpetrntakwuk menuwa apitu. Neloitf rpetrntakwuk okunean uwi tprntuf, ewi tul apitu rpetrntakwuk tuuhikatr lonca wukumikof.

"Ottawa Laws" were also printed by Meeker in the *Ottawa First Book*. The laws appeared in English and Ottawa on facing pages as illustrated above (pp. 102 and 103 of the book).

THE KANSAS HISTORICAL QUARTERLY

Volume XLII

Autumn, 1976

Number 3

A Study of the Laws of the Ottawa Indians as Preserved in the *Ottawa First Book* (1850)

THEODORE JOHN RIVERS

I. INTRODUCTION

THROUGH the efforts of Jotham Meeker (1804-1855), Baptist missionary to the Ottawa Indians and first printer in the state of Kansas, 25 laws of the Ottawa Indians have been preserved.¹ The laws which have come down to us are found in the *Ottawa First Book*, a small volume printed by Meeker at Ottawa, Kan., in 1850, which contains, apart from the laws, a grammar on the Ottawa language, translations into Ottawa of Luke's Gospel, and mathematical tables.² The book also contains United States whiskey laws, which are translated into the Ottawa language. The only portion of this book which is in English are the laws themselves, in which the Ottawa original is accompanied by an English translation. This English translation comprises pages 102-124. The fact that the laws were rendered into writing at all is a remarkable achievement. Among primitive cultures, the traditions and customs of the past

THEODORE JOHN RIVERS, born in Rochester, N. Y., and with M. A. and Ph. D. degrees from Fordham University, New York, is a free-lance writer living in New York. He is the author of several published articles relating to legal history.

1. For Jotham Meeker, see Douglas C. McMurtrie and Albert H. Allen, *Jotham Meeker, Pioneer Printer of Kansas With a Bibliography of the Known Issues of the Baptist Mission Press at Shawanoe, Stockbridge, and Ottawa, 1834-1854* (Chicago, 1930), which contains a biography of Meeker's life, pp. 15-23, and extracts from his unpublished "Journal," pp. 43-126, for the years 1832-1855. The "Journal" itself is located at the Kansas State Historical Society, Topeka, and runs without interruption from September 10, 1832, to January 4, 1855. Also, see Floyd B. Streeter, "Jotham Meeker and the First Printing Press in Kansas (sic)," *The American Collector*, Metuchen, N. J., v. 5 (1927-1928), pp. 190-193, and Kirke Mechem, "The Mystery of the Meeker Press," *Kansas Historical Quarterly*, v. 4 (1935), pp. 61-73.

2. *Ottawa First Book*. Containing *Lessons for the Learner; Portions of the Gospel by Luke*, Omitted by Matthew and John; and the *Ottawa Laws*, by Jotham Meeker (Second edition, Ottawa Baptist Mission Station, J. Meeker, Printer, 1850). This law book, which was limited to 500 copies, is listed in Lester Hargrett, *A Bibliography of the Constitutions and Laws of the American Indians* (Cambridge, Mass., 1947), no. 209. The earlier edition of the *Ottawa First Book* has not come down to us.

I wish to express appreciation to the Rare Book Division of the New York Public Library and to its director, Mrs. Cole, for making the *Ottawa First Book* available to me. According to Hargrett, only three of a total of 500 copies of this book have been located, and these are probably the only surviving copies. Besides the copy in the N. Y. P. L., the other two copies are located at the Kansas State Historical Society, Topeka, and the Library of the Boston Athenaeum in Massachusetts. The *Ottawa First Book*, along with several other entries in Hargrett, are now available on microfilm through the Kraus Reprint Co.

are more usually conveyed in oral form by the elders or by those with exceptional memories.

The Ottawas first arrived in the Territory of Kansas in 1832, where they had been forcibly removed from Ohio and Michigan. Further removals occurred in the years 1837-1839. They were removed to Kansas against their will by the United States government, as were other Indian tribes (Chippewa or Ojibwa, Pottawatomie, and Huron) associated with them. In Ohio and Michigan, these Indians were fur traders and hunters; they were not farmers primarily. In the 17th century, the Ottawa lived in Canada, where they first made contact with the French in 1615.

A census conducted by the Office of Indian Affairs indicates that there were some 247 Ottawa in eastern Kansas in 1854,³ that is, four years after the printing of the *Ottawa First Book*. Schoolcraft says there were 300 Ottawa in 1856-1857.⁴ By either reckoning, the population of the Ottawa west of the Mississippi was not great some 20 years after their first arrival in Kansas. The 25 Ottawa laws which have survived apply to this small remnant of a once vast tribe.

There were two basic differences between the environments of Ohio and Michigan on the one hand, where the Ottawa lived prior to the 1830's, and Kansas on the other, where they were relocated. In Ohio and Michigan the Ottawa were primarily fur traders-hunters and lived in a heavily forested area. In Kansas the Ottawa were predominantly farmers and lived on a prairie. Although they eventually became dependent on the fur trade while residing in Ohio and Michigan, they could have been completely independent from the white fur trade had they chosen to do so; but white men's products (especially the rifle) became indispensable. Nevertheless, conditions derivative of a hunting society allowed the Ottawa to follow their tribal customs without a great deal of outside influence. Once they had relocated to Kansas and become farmers, they gave up their former source of income and rapidly adopted white men's agricultural practices.⁵ The presence of Jotham Meeker and other missionaries, such as Isaac McCoy, also influenced the Ottawa to abandon their tribal customs and to adopt white man's ways.⁶

3. W. Stitt Robinson, Jr., "The Indian Problem in the Kansas Territory," *Your Government* (Bulletin of the Governmental Research Center, University of Kansas), v. 9, no. 7 (March 15, 1954), p. [3].

4. Henry Rowe Schoolcraft, *History of the Indian Tribes of the United States: Their Present Condition and Prospects, and a Sketch of Their Ancient Status* (Philadelphia, 1857), v. 6, p. 547.

5. *Ibid.*, pp. 547-548.

6. William Frank Zarnow, *Kansas: A History of the Jayhawok State* (Norman, Okla., 1957), p. 52.

The question must persist whether any of the Ottawa laws predate the movement of the Ottawa Indians to Kansas in the 1830's. Dating establishes, to be sure, that the last four (of the total of 25 laws) were promulgated for the first time in January, 1850, but there are no dates for the preceding 21. We do know that these 21 laws were two years earlier than their date of publication, since the publisher Meeker writes in his diary on March 3, 1848, that he has already translated them from the Ottawa language into English;⁷ but we cannot take as conclusive evidence the inference of Hargrett⁸ that a still earlier edition was published in 1838—an unfortunate lack, since any revisions that might have been found in the later edition as compared with the earlier would be of particular significance in illustrating the development of legal maturity among the Ottawa Indians.

Did the forced relocation of the Ottawa challenge their customs sufficiently to alter them permanently?⁹ There are several indications that it did. A case in point is Law 15 which concerns punishment for setting fire to the prairie;¹⁰ this obviously is a new condition derived from relocating to Kansas, where prairies were encountered for the first time. Unfortunately, no Ottawa laws have survived other than those preserved in the *Ottawa First Book*. The laws follow, and they are reproduced exactly as they appear in the *Ottawa First Book*. The titles which introduce the laws accompany the original.

II. THE OTTAWA LAWS

STEALING TO KILL

1. If any person shall steal and kill an animal, upon conviction thereof the price of said animal shall be by him paid to the owner; and half the price he shall pay into the treasury.

THEFT

2. If any person shall steal an article of property, when it is known the stolen article must be taken. If the owner, upon seeing it, shall discover that it has not been injured, he must take it back. If it be injured, the thief shall pay one price and a half of the article. The full price must be paid to the owner, and the half price into the treasury.

7. McMurtrie-Allen, *Jotham Meeker*, p. 109.

8. *Constitutions and Laws of the American Indians*, p. 101.

9. Since a part of the Ottawa Indians moved to Canada in the late 1830's, either directly from Ohio or via Kansas, this group may have been more in tune with the traditions of the past. Unfortunately, no laws of these Indians have been preserved.—See Robert F. Bauman, "The Migration of the Ottawa Indians From the Maumee Valley to Walpole Island," *Northwest Ohio Quarterly*, Toledo, v. 21 (1949), pp. 86-112.

10. The seriousness of fire on the prairie, caused either naturally or by design, is illustrated in Meeker's "Journal," August 13, 1850.—See McMurtrie-Allen, *Jotham Meeker*, p. 119.

USING WITHOUT PERMISSION

3. If any person shall, without permission, be seen riding another's horse, for every mile he shall pay 25 cents. The price of horse hire shall be paid to the owner, and the balance into the treasury. If oxen shall be thus stolen, twice the price of ox hire shall be paid—one price of the hire shall belong to the owner, and the balance shall be deposited in the treasury.

INDIAN HORSES

4. If an Indian horse shall come into Ottawa country no attention shall be paid to him. If any person shall, regardlessly, use him, the same that is paid for an Ottawa horse per mile shall be paid for him. All of it shall be deposited in the treasury.

WHITE PERSON'S BEAST

5. If a White person's domestic animal shall come into the Ottawa country, he may be caught, to be taken care of. No person shall be permitted to take him far off, nor to work him. The person, on taking up such animal, shall write descriptions of him, which must be taken to Westport and to Wolf-town to be nailed to the doors, in order that the owner may know it, who must bring proof before he can take him, and sign his name to a written receipt. If the owner shall not come, he may be kept for one year, and then sold. For each month three dollars shall be charged for keeping him if in the winter, and in the summer two dollars. For every dollar 25 cents shall go to the treasury. Half a dollar shall be charged for advertising.

GOOD FENCE

6. A good fence must be constructed as follows: Eight rails high, and crossed stakes; and so made that neither small pigs nor hogs can get through.

STOCK DESTROYING CROPS

7. If either pigs, hogs, cattle or horses, get through a good fence, and damage the crop, the owner of the said animals shall pay for it. But if the fence be not good, and animals get in, and damages the crop, the owner of the field shall lose it, and shall neither injure nor kill the said animals.

DEBTS

8. If any person shall owe his fellow Ottawa, having named a time to pay, and does not pay at that time, the creditor may ask him to set another time to pay, who must then name a time, not far off, but within two months. If he shall not then pay, the creditor may do as he shall think best. If he shall wish to take any articles of property, or animals, he may take them.

REVENGE

9. If any person, having his property lawfully taken, shall become angry, or threaten to take revenge, or shall injure the other's property, he shall see more trouble. Whatever the lawmen shall decide on, so it shall be.

HOUSE BREAKING

10. If any person sees a house that is locked, he must not open it, unless he has permission from the owner. If he does regardlessly open it, he shall, on conviction, pay two dollars. One half shall belong to the owner of the house, and the other half shall be deposited in the treasury.

SEARCHING

11. If any person shall miss any thing of his property, he may send the lawmen to search in any suspected house—the owner of which shall submit. If he shall refuse he must stand convicted.

RE-EXCHANGING

12. If any person swops away his horse, and wishes to re-call his bargain, he can do so by paying \$5.00 in cash. All other articles exchanged may be re-exchanged by paying 25 cents on every dollar.

BAD STUD

13. If any person shall own a bad stud which shall kill a horse or colt, he must pay to the owner the value of that which is killed.

SLANDER

14. If any person shall injure another by slander, he shall pay to him the amount of injury done him.

BURNING

15. If any person shall set fire to the prairie, and burn another's property, he shall pay for what is burnt.

WHISKEY

16. Whiskey on the Ottawa land cannot come. If any person shall send for it, or bring it into the Ottawa country, he who sends, or he who brings shall pay five dollars, and the whiskey shall be destroyed. Any one sending or bringing the second time, shall forfeit all of his annuity money. For the third offence, he shall be delivered over to the United States officers, to try the severity of the White men's laws.

GAMBLING

17. If any person on the Ottawa land shall be seen at mocasin playing he shall pay two dollars and a half.

BORROWING

18. If any person shall borrow or hire a horse, ox or wagon, the time shall be named for returning them, although he may be done using them the daily price of hire shall continue to be paid. If however, sickness, or a severe rain storm should prevent, he may be excused. And also, all other articles borrowed must be returned at the time appointed. If they are not returned at the time, regular pay must then commence.—For every day the borrower must pay 12½ cents.

RESIDENTS

19. Whoever shall live on the Ottawa land must be dealt with if he shall violate any of these laws. He shall also be permitted to prosecute others if he shall be in any way wronged.

LAWMEN

20. When any one shall be elected to be a lawman he must not refuse to serve, unless he shall pay five dollars in order that he may be excused.

ATTENDANCE

21. The lawmen are required to be present at the Councils wherever held on the Ottawa land—sickness only may hold them back. If they shall carelessly neglect to attend after being informed, they shall pay each one dollar.

CANCELLING DEBTS

22. The Ottawas, knowing that much evil has hitherto resulted from their running in debt, now resolve to act differently. Those who, from this time forward, shall go in debt, shall be compelled to cancel all such debts at each annuity payment. If any one shall not, at that time, pay his debts in full, any creditor whose claims have not been cancelled, let him come from wheresoever he may, can then act according to his own wish. He can require the lawmen to seize any property whatsoever belonging to the said debtor which he may wish. If he, the creditor, shall not want the said property, the lawmen must sell it, and make payment. The debtor must also pay over to the law ten cents for every dollar thus collected, which must be deposited in the treasury. Jan. 1850.

TAXING

23. For every acre of land cultivated in the Ottawa country ten cents shall be paid.—For every head of cattle from two years old to four years old, five cents shall be paid.—For older cattle, ten cents per head shall be paid. For horses the same amounts shall be paid which are to be paid for cattle. The above amounts are to be paid once every year, and to be deposited in the treasury. The time for collecting these payments shall be in the month of September. If any one shall fail to pay at that time, and shall not have paid at the annuity payment, his money shall then be taken. January, 1850.

POOR TAX

24. Every man living on the Ottawa land shall pay annually 12½ cents. This amount is also to be paid in the month called September, and is to be given for the benefit of the poor.—To be deposited in the treasury. January, 1850.

WIDOWS AND ORPHANS

25. On the Ottawa land if a married man shall die, having children, the said children shall own all of his fields, domestic animals, and houses; and the widow shall own every thing else of his personal estate. If the said man shall die without children, the woman shall own all. If another person shall take any part of it by force, as a thief is dealt with by the law, so shall that person be dealt with who shall rob the widow and children of what belongs to them.—January, 1850.

III. A DISCUSSION

A. *Basic characteristics.* The Ottawa laws are primarily criminal laws, that is, they are concerned with the definition and punishment of crimes. An overwhelming number of these laws are concerned with monetary compensation as a means of the redress of crimes. Like most American Indian tribes, the Ottawa do not possess the idea of confinement or imprisonment as a form of retribution. Rather, 20 laws (1-5, 7-8, 10, 12-18, 20-24) of a total of 25 describe or imply monetary compensation; and furthermore, nine of these 20 laws involve payment of such compensation to a public treasury, which indicates that the Ottawa were evolving legally

from the primitive law of personal wrongs to the more sophisticated concept of criminal law.

Ottawa law is primarily private rather than public law. It is also primarily customary law. Yet in 1850 it was evolving in the direction of statute law made in the tribal council (so specified by Laws 22-25, passed in January, 1850) as distinguished from laws simply passed on in oral manner from generation to generation. It showed a grasp, too, of the related principle of territoriality of law; Law 19 shows that whoever is on Ottawa land, whether an Ottawa Indian or not, is subject to Ottawa law. It is universally upheld by legal historians of comparative law that the concept of territoriality is an outgrowth of the personality of law. An attempt to explain Ottawa law, like all law, may be equated with an attempt to explain the regulations under which a society lives.

B. *Lawmen.* Five laws discuss the institution of the "lawman." That the lawman may have represented an institution new to the Ottawa in the 19th century is evident in two of these laws, which delineate this functionary's election to office and his mandatory attendance in the tribal council. "Lawman" is a somewhat arbitrary title, since he did more than legislate; he also functioned as the police.

The office of the lawman, an elective one, required attendance at the council meetings under penalty of a \$1.00 fine.¹¹ That he was sometimes drafted by the people without his consent is evident from Law 21, which makes clear that some Ottawa Indians were elected and tried not to serve. Those who openly refused to serve were fined \$5.00; the payment of this fine freed them of their obligations.¹² The lawmen made policy, and their judicial decisions were expected to be followed by their constituents.¹³

As an enforcement officer, the lawman had the power to execute the law¹⁴ and to enforce the redress of grievances. This latter is most noticeable in Law 22, which gives the lawman the right to settle a debt by seizing a debtor's property and by reaching a settlement with the creditor. If the creditor does not want the property, the lawman can sell it and make payment (in money) to the creditor. Law 22 was enacted by the Ottawa council in January, 1850, and it constitutes one of the four new laws enacted in that year.

C. *Public treasury.* References to the public treasury appear in

11. Law 21.

12. Law 20.

13. Law 9.

14. Law 11.

the Ottawa laws a total of nine times; principally at the beginning and near the end, with one exception toward the middle (Laws 1-5, 10, 22-24). Penalty payments to this treasury were in most cases required *in addition to* penalties exacted on behalf of the victim of a crime; when property of an unknown victim was abused (as in the case of a stray horse appropriated by an Ottawa tribal member, Law 4), the penalty was payable to the public treasury in full.¹⁵ Penalties stipulated for payment to the public treasury by Laws 22-24 are considerably smaller than those stipulated by Laws 1-5, 10. However, the proportion paid to the victim of a crime and to the public treasury varies from law to law; it is not fixed.

What is the function of the public treasury? It cannot be said that those laws which require payment to the treasury affect the whole community, and therefore are public laws in every case; yet payment to the treasury adds one more sanction to those who violate the law. Payment to the public treasury exemplifies that the concept of criminal law is beginning to emerge from the primitive law of personal wrongs and private redress. One definite benefit of payment to the public treasury is illustrated in Law 24, which describes the poor tax which every man (every adult male?) is required to pay each year; the revenues collected are deposited in the treasury to be distributed among the poor.

D. *Debts*. Two Ottawa laws concern repayment of debts, and these are Laws 8 and 22. Law 22, which was passed in January, 1850, adds new conditions to those proposed in Law 8. Law 8, undoubtedly the earlier, requires the debtor to pay back the debt within two months, and if the debt is not paid within this time, the creditor may take whatever action he feels is necessary—probably the seizure of property—to make restitution;¹⁶ Law 22 adds new and somewhat more liberal conditions to Law 8, permitting restitution at the time of the annuity payment (*see* section G). Property may still be seized under Law 22 as under Law 8, but lawmen with their police powers are also used in conjunction with the creditor in compelling the debtor to pay back his debt. Under Law 22, the debtor must also make payment to the public treasury. The promulgation of Law 22 illustrates that debts were not being paid within the two-month period described by Law 8, and the Ottawa government saw to it that debtors were forced to pay back debts

15. There are four additional laws (16-17, 20-21) which make no explicit mention of the public treasury, but which may still require payment to it. Since no individual victim is specified in these laws, it may be inferred from their context that payment was made to the public treasury.

16. Law 8 permits retributive seizure of articles of a debtor's property on the part of his creditor; Law 9 restrains the debtor from rash reactions to such a seizure.

under the added authority of the lawmen, and this is done at the time of the annuity payment. Evidently, part of the debtor's annuity payment was paid to the creditor.

E. *Law of Inheritance*. It is known that in the 17th century the Ottawa traced descent patrilineally and were exogamous.¹⁷ These customs still apply to the Ottawa residing in Kansas.¹⁸ That the Ottawa traced descent patrilineally is reinforced by Law 25, which indicates that preference is given to a man's children rather than to his wife in dividing the paternal inheritance. This is to be expected, since in an agricultural community, children would have scant means of support other than the paternal inheritance. Under this law, children inherited the most valuable possessions, land and livestock, and the widow (unless childless, in which case she was the sole beneficiary) inherited all remaining property of her late husband. What remained, of course, constituted a mere fraction of the paternal inheritance. Land may have descended through a father's sons only, although this cannot be proved. This law of inheritance applies only to legitimate children; there is no condition for illegitimate children.

F. *Animals*. Three types of animals are described in 12 Ottawa laws, and these are cattle and oxen, pigs and hogs, and horses. Horses are by far the most important of these three types, since they are described in seven of these 12 laws, and three laws are devoted to them exclusively. Cattle and oxen are often discussed in conjunction with horses; pigs and hogs are the least important. (There is no mention of animals other than those described here, such as chickens.) The enumeration of animals appears in a variety of contexts. There is a law which specifies the amount of tax to be paid on cattle or horses;¹⁹ a law which requires compensation because pigs and hogs, or cattle, or horses have damaged another's crops;²⁰ a law which defines the illegal use of another's animal without receiving the owner's permission;²¹ a law which penalizes the owner of a stud horse which kills a horse or colt;²² a law which allows animals to be seized for payment of a debt;²³ a law which includes animals in the paternal inheritance;²⁴ a law

17. Paul Weer, "Ethnological Notes on the Ottawas," *Proceedings of the Indiana Academy of Science*, Indianapolis, v. 49 (1939), p. 27.

18. Lewis Henry Morgan, *The Indian Journals, 1859-62*, ed. Leslie A. White (Ann Arbor, 1959), p. 36. Also, see Norman G. Holmes, "The Ottawa Indians of Oklahoma and Chief Pontiac," *The Chronicles of Oklahoma*, Oklahoma City, v. 45 (1967), pp. 204-205.

19. Law 23.

20. Law 7.

21. Laws 3-4.

22. Law 13.

23. Law 8.

24. Law 25.

which concerns stealing another's animal with the sole purpose of killing it.²⁵ There are laws concerning animals besides these.²⁶ An overwhelmingly large number of laws, therefore, concern livestock; there is no other category of the Ottawa laws which receive as much attention as that of animals. Since the Ottawa Indians became agriculturists, livestock became correspondingly a vital part of their economy.

G. *Annuity payment.* The yearly payment given by the United States government to the Ottawa Indians in compensation for the appropriation of their land in Ohio and Michigan constitutes the annuity payment. This payment was given to the head of every Ottawa household. Three laws describe full or partial appropriations made from this payment, and they concern penalties paid for violation of whiskey laws (Law 16), repayment of debts (Law 22), and taxes (Law 23). There are innumerable references to the annuity payment in treaties between the Ottawa and the U. S. government, beginning with the treaty at Greeneville in 1795;²⁷ three references to it appear in the Ottawa laws. The first of these concerns the violation of Ottawa whiskey laws. An Ottawa Indian found guilty of sending or bringing whiskey on Ottawa territory a second time was liable to the confiscation of his annuity payment. (The first time he is fined \$5.00.) This is given in Law 16, and the severity of this law obviously was an attempt to pressure the Ottawa to relinquish a bad habit. If an Ottawa was discovered to be in violation of Law 16 a third time, he was placed in the custody of U. S. officials and was tried under American whiskey laws.

The second reference to the annuity payment appears in Law 8, which permits the cancellation of debts at the time of annuity payment instead of within the two-month period specified in the earlier law. Debts made good at the time of the annuity payment assured the creditor that the debtor had enough funds to cancel the debt. Thirdly, the annuity payment was used to pay the annual tax on livestock and land, and this is contained in Law 23. Both Laws 22 and 23 were added by the Ottawa council in January, 1850.

IV. CONCLUSION

There must have been other Ottawa laws which have not come down to us. Such an hypothesis is particularly likely in the absence of a law for murder. That the Ottawa punished a murderer

25. Law 1.

26. Laws 5-6, 12, 18.

27. Charles J. Kappler, comp. & ed., *Indian Affairs. Laws and Treaties* (Washington, 1904), v. 2 (Treaties), pp. 41-42.

with death is evident from John Tanner's *Narrative*.²⁸ In this account, the murderer expected to be slain for his crime and even dug a grave for two people—for the murdered man and himself. The murderer of the episode would have suffered capital punishment had he not come from a powerful family, but as it was his life was spared, and no blood feud resulted. Although no date accompanied this incident, it may be dated ca. 1810. This custom still survived among the Ottawa in the 1830's.²⁹ But did it survive to the year 1850 when Meeker printed the Ottawa laws? If it did not survive, it must have been replaced by white man's justice. The very act of relocating west of the Mississippi river may have changed Ottawa custom substantially, since the Ottawa believed Kansas to be a dry and barren land and in danger from the Plains Indians, who were more warlike than themselves. That still more legislation has been lost is evident from the absence of laws intended for the redress of crimes such as adultery and assault. Those laws which have survived may consist either of new laws passed since relocating to Kansas, or older laws which needed to be reinforced, or both.

This is not to say that every Ottawa institution needed a law. A case in point regards the trade of blacksmith, which was introduced into Ottawa society by the U. S. government. The earliest reference to the blacksmith is found in a treaty signed at Detroit between the Ottawa Indians and the U. S. government (November 17, 1807),³⁰ and subsequent references can be found in treaties for 1821, 1829, 1836, and 1846.³¹ All of these treaties make special mention of this craftsman; he must have performed an important function among the Ottawa. Schoolcraft³² says that Pottawatomie blacksmiths were employed for the repairing of farm and household implements. That the blacksmith is found among the Pottawatomie in Schoolcraft's *History* and is absent from his discussion of the Ottawa may be indicative of the large differences in population between these two Indian tribes. The Pottawatomie outnumbered

28. *A Narrative of the Captivity and Adventures of John Tanner (U. S. Interpreter at the Saut de Ste. Marie), During Thirty Years Residence Among the Indians in the Interior of North America*, prepared for the press by Edwin James (London, 1830), p. 175. Although this incident may really describe the Chippewa (Tanner was captured by them when he was nine years old in 1789), the customs of the Chippewa closely parallel those of the Ottawa as well as the Pottawatomie. Reference to John Tanner and the Chippewa is taken from Claude Charles Le Roy, *Bacqueville de la Potherie, History of the Savage People Who Are Allies of New France* (in) *The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes*, ed. and trans. Emma Helen Blair (Cleveland, 1912), v. 2, p. 97.

29. Robert F. Bauman, "Young Jim, the Ottawa's Last Hope. A Selection from the Dresden W. H. Howard Papers," *Northwest Ohio Quarterly*, v. 23 (1951), p. 49.

30. Kappler, *Laws and Treaties*, v. 2, p. 93.

31. *Ibid.*, pp. 200, 298, 453, and 559.

32. *History of the Indian Tribes*, v. 6, p. 547.

the Ottawa by 17 to 1 according to the census conducted by the Office of Indian Affairs in 1854.³³

Nor can it be said that the promulgation of the Ottawa laws constituted the last attempt of a people to assert their national identity. Rather the Ottawa realized their tribal mores had been seriously challenged with their relocation to Kansas and, as a result, they attempted to modernize their tribal custom. What have survived, therefore, are laws which illustrate a period of transition between older tribal custom, which is impossible to pinpoint exactly, and more modern law.³⁴

33. See Footnote 3 above.

34. See the comments in *The Annual Register of Indian Affairs Within the Indian (or Western) Territory*, published by Isaac M'Coy, Shawnee Baptist Mission, J. Meeker, printer, no. 2 (January 1, 1836), p. 51.

"No Propriety in the Late Course of the Governor": The Geary-Sherrard Affair Reexamined

DAVID E. MEERSE

AT 2:00 P. M. on Wednesday, February 18, 1857, a crowd estimated at 200 to 300 people assembled on Capitol Hill, LeCompton, seat of the government of territorial Kansas. Assembled in response to public notices addressed "to all good citizens of LeCompton and vicinity," the crowd was a curious mixture. There were official delegates elected by public meetings, editors of the local newspaper, the former sheriff of the county, at least one former justice of the peace, some federal officials, and a group of prisoners, taken there by the territorial master of convicts, Kentuckian Levi J. Hampton.

Regardless of the diversity of their backgrounds or political preferences, all knew that the purpose of the meeting was to take some action in regard to recent insults offered by 28-year-old William T. Sherrard, recently appointed sheriff of Douglas county, to 38-year-old John W. Geary, Mexican War hero, first American mayor of San Francisco, and, until his appointment as territorial governor, operator of coal mines in his native Pennsylvania and the Kanawha region of (West) Virginia, Sherrard's native state. Sherrard's insults, which had escalated to the level of an attempt at the governor's assassination, stemmed from Geary's refusal to issue the official commission entitling Sherrard to exercise the office to which the board of county commissioners had appointed him.¹

Dr. DAVID E. MEERSE, a native of Ogallala, Neb., was graduated from Doane College, Crete, Neb., and received his Ph. D. from the University of Illinois at Urbana-Champaign. At present he is an associate professor of history at the State University of New York College at Fredonia, and is also working on a book-length manuscript on "Kansas Constitutionalism: Topeka and LeCompton, 1855-1858."

1. Numerous newspaper accounts of the February meeting exist, all colored by the political preferences of their authors: the pro-Sherrard accounts are to be found in the *LeCompton Union*, February 25, 1857; the Westport correspondence of Henry Clay Pate in the *St. Louis Missouri Republican*, February 26-27, 1857; letter of A. W. Jones to the editor, *ibid.*, March 6, 1857; Richmond (Va.) *Enquirer*, March 2, 7, April 16, 1857; and Washington (D. C.) *Evening Star*, March 19, 1857. The pro-Geary accounts are to be found in the *New York Evening Post*, February 26, 1857; reprinted in the *New York Times*, February 28, 1857; the account of "Kent," Lawrence, February 18, 1857, in *N. Y. Evening Post*, March 7, 1857; the account of "Trimmer," Lawrence, February 18, 1857, in *N. Y. Times*, March 4, 1857; *Herald of Freedom*, Lawrence, February 28, 1857, and account of "A National Democrat," LeCompton, February 20, 1857, in *Missouri Republican*, February 26, 1857. An extremely valuable account, composed of personal observations and interviews with eyewitnesses on the Free-State side is to be found in S. P. Hand to Thaddeus Hyatt, Lawrence, February 19, 1857. "Thaddeus Hyatt Manuscripts," Kansas State Historical Society. Geary's account of the events is found in his letter to James Buchanan, LeCompton, February 10 [sic], 1857 [copy]. "John W. Geary Manuscripts," Yale University. A comparison of this copy with the original in the "James Buchanan Manuscripts," Historical Society of Pennsylvania, indicates that both are misdated; internal evidence indicates that the letter was begun on February 20 and completed on February 21, 1857. Geary's coal-mining activities are well documented in the "Geary Mss."