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Using Algonquian Dictionaries as Ethnographic Sources:
A Case Study in the Legal Culture and Jurispractices of the Illinois at the Turn of the
18th century

L'utilisation de dictionnaires de langues algonquiennes comme sources
ethnographiques : étude de cas sur la culture légale et les pratiques juridiques illinoises
au tournant du XVIII^e siècle

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Abstract

Miami-Illinois is an Algonquian language that, in the 18th century, was to be heard to the south of the Great Lakes. In the 19th century, forced removals and the reservation system led to cultural and linguistic fragmentation amongst Miami-Illinois speakers. Against this current, language revitalization efforts began in the mid-1990s and, due to these, Miami-Illinois is again a spoken language. A wealth of documentation is now available through the Indigenous Languages Digital Archive. This thesis draws on this resource, in conjunction with other archival and published sources, to elicit an understanding of the legal culture of the people called Illinois by the French, particularly that of the Kaskaskias (*kaahkaahkiaki*), as it was in the early 18th century. Building on linguistic and historical sources, this work explores their jurisprudence in relation to cases that have been preserved in the archives of the French overseas empire. Three points are addressed, namely: (i) how the Illinois (and Myaamia) thought about justice in the early 18th century; (ii) how the Miami-Illinois–and–French dictionaries can provide a new depth of understanding about this; and (iii) the limits to our ability to elicit abstract concepts from a fragmentary historical record.

Keywords: Algonquian language dictionaries; Illinois legal philosophy; Indigenous legal systems; Legal culture; Miami-Illinois language.

Résumé

Au XVIII^e siècle, le miami-illinois (langue de la famille algonquienne) était traditionnellement parlée au sud des Grands Lacs. Le XIX^e siècle a vu une fragmentation culturelle et linguistique parmi les locuteurs du miami-illinois. Des efforts de revitalisation de la langue ont commencé vers 1995. Grâce à ce travail minutieux, le miami-illinois est redevenu une langue parlée. Il y a maintenant une grande richesse de matériels linguistiques disponibles grâce à la banque de données *Indigenous Languages Digital Archive*. Cette thèse a pour but d'explorer la culture juridique des Illinois au début du XVIII^e siècle, avec une attention particulière pour le peuple kaskaskia (*kaahkaahkiaki*). En étudiant des cas réels préservés dans les archives de la Nouvelle France et en se basant sur des sources linguistiques et historiques, ce texte explore les pratiques juridiques des Illinois. Trois points sont étudiés : (i) la conception de la justice des Illinois (et Myaamia) au début du XVIII^e siècle; (ii) comment les dictionnaires jésuites en miami-illinois et français peuvent améliorer notre connaissance et compréhension de cette période; et (iii) les limites de la recherche dans l'histoire des idées dans les archives historiques incomplètes.

Mots clefs : culture juridique; dictionnaires langues algonquiennes; langue miami-illinoise; philosophie légale des Illinois; systèmes légaux autochtones.

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Abbreviations, symbols and typography

Abbreviations

For notes on the referencing of primary sources, please consult the Bibliography.

ANOM	<i>Archives nationales d'outre-mer.</i>
BAnQ	<i>Bibliothèque et Archives nationales de Québec.</i>
BnF	<i>Bibliothèque nationale de France.</i>
ILDA	Indigenous Languages Digital Archive.
JR	The Jesuit Relations and Allied Documents, 1610–1791.
KM	Kaskaskia Manuscripts.
LB	Antoine Robert “Jean-Baptiste” LeBoullenger, <i>Miami-Illinois– and–French Dictionary</i> , c. 1725.
LG	Jacques Largillier, <i>Miami-Illinois–and–French Dictionary</i> , c. 1700. This source can also be referred to as the Largillier-Gravier Dictionary.
MP	Myaamia-Peewaalia–and–English dictionary.
PN	Pierre-François Pinet, <i>French and Miami-Illinois Dictionary</i> , c. 1702.
TR	Charles C. Trowbridge, <i>Account of some of the Traditions, Manners and Customs of the Twaatwāā or Miami Indians</i> , 1824–25.

Symbols

8 or 8 This ligature of the letters ‘o’ and ‘u’ was used in the 18th century to represent the sound ‘ou’ or ‘w’, common in Miami-Illinois. The upper and lower cases are shown here. For convenience it is often represented by the numeral ‘8’ (note that this is different from the letter ‘8’ used to represent the nasal vowel [ɔ̃], a sound between ‘an’ and ‘on’, in some Algonquian languages, such as Abenaki).

<...> Single guillemets indicate the transcription of a Miami-Illinois word or phrase as recorded in the 17th and 18th centuries. Where a modern spelling of the word is used it is shown in italics.

̄ In some quotations a single (or double) macron is used to indicate long vowels, for example ‘ē’ for ‘ee’.

Typography

Minor changes to handwriting and typography in primary sources have been made. The long s, ‘ſ’, has been replaced by ‘s’. Where appropriate, ‘v’ has been substituted for ‘u’ and ‘j’ for ‘i’ (and vice versa). Obvious errors and redundancies have also been corrected without indication. For manuscript sources, modern conventions on capitalization and spelling have been followed whenever the original is unclear. For consistency, the numeral ‘8’ has been replaced by the ligature ‘8’ in quotations, where appropriate.

CHAPTER 1

ARCHIVES AND DICTIONARIES

Eripissac8caki atinocata8aganem
il est de cette hauteur son dictionnaire illinois
[his Illinois dictionary is this/that tall]

LeBoullenger Dictionary¹

This study plots the interconnections between knowledge, language and law within one Indigenous legal culture.² It began as an investigation into the philosophy of justice of the people called Illinois by the French, as it was in the late 17th and early 18th centuries.³ In researching this, however, other questions connected to the writing of history have gained importance. This is due to the appraisal of linguistic sources as a key body of primary material in this research. It is therefore equally a study of the limits of our ability to elicit abstract concepts from fragmentary and biased historical sources, particularly as these were largely written by those with a widely different conception of law and justice than the people of whom they wrote. Its originality lies in its use of linguistic sources as a key to unlock a door that opens into the conceptual world of the Illinois in 18th century

¹ Antoine Robert “Jean-Baptiste” LeBoullenger (LB), *Manuscript [Miami-Illinois-and-French Dictionary]*, (c. 1725), 248:6. Translations from Miami-Illinois-and-French dictionaries are taken from the Indigenous Languages Digital Archive (ILDA). As the ILDA is a work in progress, I have sometimes made minor corrections or additions based on the manuscript. On occasion, as well, I have provided a slightly different translation when there is a nuance in the French relevant to the historical context. When this has been done, I have indicated that it is my translation. References indicate page, line, and (where needed) phrase numbers, as found in the ILDA. Note that these do not necessarily correspond to the page or folio numbers in the manuscripts as both recto and verso are counted, as well as unnumbered introductory pages. For this reason ‘p.’ is not included in these references.

² The terms “Indigenous” is capitalized in this study as it is used as a proper noun, the North American equivalent to “European.” Other terms, such as “Chief,” have been similarly capitalized following Gregory Younging’s *Elements of Indigenous Style: A Guide for Writing by and about Indigenous Peoples* (2018).

³ In this study the term “Illinois” is used when referring to the 17th and 18th century political confederation of the Cahokias (*kaawakiaki*), Kaskaskias (*kaahkaahkiaki*), Michigameas, Peorias (*peewaaliaki*), and Tamaroas. From this comes the name for the language spoken by the Illinois and Myaamia, Miami-Illinois. In its modern form this can also be referred to as the Myaamia-Peewaalia language.

colonial America. This provides a window through which we can gaze, though much remains lost due to the nature of the sources available, which are often fragmentary, one-sided and biased. By using linguistic sources, particularly the Miami-Illinois–and–French dictionaries compiled by Jesuit missionaries in the early 18th century, along with the established corpus of archival sources, it is possible to create a more nuanced picture of Indigenous conceptions of justice than has been possible up to now. Part of this study’s ability to harness these sources is due to the development of a searchable database of Miami-Illinois linguistic sources at the Indigenous Language Digital Archive, which will be discussed below. This recent technological development, undertaken as part of the revitalization of the Miami-Illinois language, also permits a deeper historical understanding of Indigenous experiences in the colonial period.

Throughout this research, three questions will be addressed: firstly, what do the extant historical sources permit us to say about Illinois legal culture in the 18th century? Secondly, how can a study of linguistic sources, particularly Miami-Illinois–and–French dictionaries, add to our knowledge of this? And finally, what are the limitations placed on our understanding by the source material? This chapter sets the ground work to answer these questions, beginning with a review of the relevant historical work already done on this subject, then moving onto establishing the linguistic and epistemological frameworks within which this study is placed.

Historiography

The primary aim of this research, as has been stated, is to explore the Illinois legal culture as it was in the beginning of the 18th century, a period in which the Illinois and French were in close contact in the area then called the *Pays des Illinois* [Illinois Country,

see Map 1.1]. The phrase quoted at the beginning of this chapter, <eripissac8caki atinocata8aganem>, comes from the LeBoullenger Dictionary, and was recorded under keyword “hausser” indicating height.⁴ The gloss given is “il est de cette hauteur son dictionnaire illinois [his Illinois dictionary is this/that tall].”⁵ The term for Illinois dictionary is given, in its modern form, as *inohkatawaakan* a word that brings together the morphemes for Illinois (*inohk-*), language (*-aatawee-*), and instrument (*-aakan*).⁶ This appears to be the only entry using the word for dictionary in the Miami-Illinois-and-French dictionaries, and the term “dictionnaire” is only found in the gloss in one other reference, again connected to measurement; at about 45 by 30 cm (17 by 11 in) the LeBoullenger manuscript was a large book.⁷ This, of course, makes sense if one considers that these dictionaries were tools to help the Jesuits in their missionary work, for which talking about them would not have been particularly important. This entry is of the order that contains definitions, descriptions or context for the terms that are translated. This chapter will concern itself more with these types of entry, in particular the questions of language and its recording in Miami-Illinois-and-French dictionaries. The methods that can be applied to these sources to elicit historical information from the primary material will be presented, laying the ground for the application of these methods to the source material in the subsequent chapters. Before these points are addressed, however, the historiography of the Indigenous legal cultures and the *Pays des Illinois* will be reviewed,

⁴ The symbol ‘8’ here is the ligature of the letters ‘o’ and ‘u’, used historically by the Jesuits, and other writers, to record the ‘ou’ or ‘w’ sound absent from the French language except in loan words.

⁵ LB, 248:6.

⁶ The linguistic analysis is drawn from the Indigenous Language Digital Archive (ILDA), LB, 286:6.

⁷ LB, 242:11. The dimensions of the manuscript are given as roughly 17 in by 11 in by David J. Costa, see “About the Illinois Language in Le Boullenger’s Dictionary”, in the ILDA, <<https://mc.miamioh.edu/ilda-myaaamia/documents/19>>.

with particular attention given to studies discussing Indigenous legal culture, as well as an overview of the colonial sources relevant to Illinois history.

Colonization and legal culture(s)

In the historiography of colonial North America, the law of the colonizing powers often retains a great deal of attention. It is well documented and provides interesting comparisons with the legal practices of the metropole. A study of law in New France would normally rely on a great deal of scholarship in this field, such as Benoît Garnot's *Histoire de la justice : France, XVI^e–XXI^e siècle* (2009), Josianne Paul's *Sans différends, point d'harmonie : Repenser la criminalité en Nouvelle France* (2012), or Éric Wenzel's *La justice criminelle en Nouvelle-France (1670–1760) : Le Grand Arrangement* (2012), to name a few.⁸ While such works have been consulted when necessary, 18th-century French laws does not form a central part of this work for two reasons. Firstly, in the area and period being studied the primary sources being drawn on come, for the most part, from the pens of French clerks, missionaries, and officers. These individuals had a far from perfect understanding of the French legal concepts, as Laura Benton had observed:

Most expedition commanders or settlement heads were not law trained, and they administered law very often on the basis of what they could recall about legal practices at home, what they had heard from others about law, and what they imagined the expectations of their superiors to be. They did not simply improvise to create variants from a baseline set of legal practices and standards; they often gestured only vaguely at precedents they thought they knew.⁹

⁸ Benoît Garnot, *Histoire de la justice : France, XVI^e–XXI^e siècle*, Paris, Éditions Gallimard, 2009, 789 pp. The glossary provided (pp. 692–702) is of particular use; Josianne Paul, *Sans différends, point d'harmonie : Repenser la criminalité en Nouvelle France*, City of Québec, Septentrion, 2012, 346 pp.; Éric Wenzel, *La justice criminelle en Nouvelle-France (1670–1760) : Le Grand Arrangement*, Dijon, Éditions Universitaires de Dijon, 2012, 168 pp.

⁹ Laura Benton, "In Defense of Ignorance: Frameworks for Legal Politics in the Atlantic World," in Richard Jeffrey Ross and Brian Philip Owensby, eds, *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, New York, New York University Press, 2018, pp. 277–78.

The level of legal knowledge varied, of course, from person to person, and an understanding of legal procedures were probably more deeply ingrained than Benton allows for.¹⁰ Notwithstanding this, none of the primary sources covered here were written by lawyers or legal scholars. Their contact with French law was a practical, not theoretical, one. Too deep an emphasis on the Early Modern French legal system would, for this study, risk implying a level of legal sophistication that was lacking on the margins of the French imperial sphere. The second, and more important, reason is that this is not a study of French colonial law, but rather the laws of the Illinois as can be gathered from French sources. To place too much of an emphasis on French legal ideas would distract from this. Indeed, an effort has been made to place the Miami-Illinois language and law at the centre of this work. As Heidi Bohaker has written “language itself is potent source of Anishinaabe law,” a principle that can be applied to the Illinois as well.¹¹ This decision also means that this thesis does not engage in comparisons across Indigenous societies. Just as detailed discussions on French law would obscure the object of this thesis, the comparative analysis of other Indigenous legal practices would act to disperse it. As such, this study will restrict itself to the investigation of the legal principles of the Illinois, as they were at the turn of the 18th century.

Over the last three decades the number of studies considering the interactions of colonial and Indigenous approaches to law have grown significantly. Scholars have increasingly considered:

[...] the dialogic aspect of colonization. Matters once approached as if they consisted of little more than the rapid and overwhelming imposition of European ways on unfamiliar landscapes, in which the fate of

¹⁰ The Kaskaskia Manuscripts (KM), discussed below, show the importance of civil law to the inhabitants of the *Pays des Illinois*.

¹¹ Heidi Bohaker, *Doodem and Council Fire: Anishnaabe Governance through Alliance*, Toronto, University of Toronto Press, 2020, p. 175.

indigenous cultures was simply to be transformed or obliterated, have been reexamined for signs of the agency of the colonized. The change has yielded histories that present colonial encounters as processes at once more tentative than previously thought, and with effects mutually rather than singly transforming.¹²

The broad phenomenon of colonization has come under scrutiny, with particular focus on the Americas and Oceania, as well as Africa. Of particular note are four collective works: *The Many Legalities of Early America* (2001), edited by Christopher L. Tomlins and Bruce H. Mann, *Native Claims: Indigenous Law Against Empire, 1500–1920*, (2012), edited by Saliha Belmessous, *Legal Pluralism and Empires, 1500–1850* (2013), edited by Lauren A. Benton and Richard J. Ross, and *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America* (2018), edited by Richard J. Ross and Brian P. Owensby.¹³ When discussing intercultural encounters between Europeans and Indigenous societies, scholars have generally been concerned with the role that European legal systems have played in the process of colonization, as well as Indigenous interactions or resistance to these.¹⁴ In the same vein, a number of monographies are worth noting, including Robert A. Williams *The American Indian in Western Legal Thought: The Discourses of Conquest* (1990) and Michel Morin’s *L’usurpation de la souveraineté autochtone : Le cas des peuples de la Nouvelle-France*

¹² Christopher L. Tomlins and Bruce H. Mann, eds, *The Many Legalities of Early America*, Chapel Hill (N.C.), University of North Carolina Press, 2001, p. 119.

¹³ *Ibid.*, 466 pp.; Saliha Belmessous, ed., *Native Claims: Indigenous Law Against Empire, 1500–1920*, New York, Oxford University Press, 2012, 278 pp.; Lauren A. Benton and Richard Jeffrey Ross, *Legal Pluralism and Empires, 1500–1850*, New York, New York University Press, 2013, 314 pp.; Richard Jeffrey Ross and Brian Philip Owensby, eds, *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, *op. cit.*, 330 pp.

¹⁴ See, for example, Saliha Belmessous, “Wabanaki versus French and English Claims in Northeastern North America, c. 1715,” in Saliha Belmessous, ed., *Native Claims: Indigenous Law Against Empire, 1500–1920*, *op. cit.*, pp. 107–128; and, Nancy O. Gallman and Alan Taylor, “Covering Blood and Graves: Murder and Law on Imperial Margins,” in Richard Jeffrey Ross and Brian Philip Owensby, eds. *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, *op. cit.*, pp. 213–237; or Katherine A. Hermes, “ ‘Justice Will Be Done Us’: Algonquian Demands for Reciprocity in the Courts of European Settlers,” in Christopher L. Tomlins and Bruce H. Mann, eds, *The Many Legalities of Early America*, *op. cit.*, pp. 123–49.

et des colonies anglaises de l'Amérique du Nord (1997).¹⁵ Notwithstanding this, there are few broad overviews of Indigenous legal practices in their own right. In many cases, the question of law is often cast as a small piece in a larger story. For example, in Bruce G. Trigger's two volume *The Children of Aataentsic: A History of the Huron People to 1660* (1976), the section on law is a little over two pages-long.¹⁶ Of course, legal questions are addressed elsewhere in the book, as they happen to intersect with the historical narrative. Often historians provide general summaries of legal principles drawn from reports about different, if similar, societies. Law is then discussed not in terms of individual societies, but as general principles applicable to the Aboriginal peoples of a whole region. These can be very useful, and the best such overviews for the 18th century are found in Richard White's *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (1991), Gilles Havard's *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715* (2003) and Katherine A. Hermes' chapter in *The Cambridge History of Law in America, Volume I* (2008), titled "The Law of Native Americans, to 1815."¹⁷ The latter provides an overview of the legal practices of Indigenous peoples of Northeastern America, with a particular focus on the Algonquian-speaking peoples in contact with the English colonies. Notably, Hermes coined the term "jurispractice" to describe the set of ideas and principles "that evolved as an indigenous way of acting

¹⁵ Robert A. Williams Jr, *The American Indian in Western Legal Thought: The Discourses of Conquest*, New York and Oxford, Oxford University Press, 1990, pp. 49–50; Michel Morin, *L'usurpation de l'identité autochtone : le cas des peuples de la Nouvelle-France et des colonies anglaises de l'Amérique du Nord*, Montréal, Boréal, 1997, 334 pp.

¹⁶ Bruce G. Trigger, *The Children of Aataentsic: A History of the Huron People to 1660*, Montreal and Kingston, McGill-Queen's University Press, 1987, pp. 59–62.

¹⁷ Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, pp. 75–93; Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, pp. 457–474; Katherine A. Hermes, "The Law of Native Americans, to 1815," in Michael Grossberg and Christopher L. Tomlins, eds, *The Cambridge History of Law in America: Early America (1580–1815)*, vol. 1, Cambridge, Cambridge University Press, 2008, pp. 32–62.

legally, both within indigenous societies and among them, and that could, after European settlement, be communicated to colonial authorities whose systems were different.”¹⁸ This concept is useful in creating a distinction between “law,” which “can only be known by the deepest understanding of a society,” and the practices and procedures that can be identified in the historical record.¹⁹ These have come down to us in large part through the writings of European authors, whose biases and interpretations block the deepest understanding of the history of such societies. Nevertheless, the study of jurisprudences allow for a recognisable picture of to be established of these societies’ legal principles:

Indigenous jurisprudences were founded on expectations of people that were not subject to arbitrariness or to change without formal discussion. They encompassed mechanisms for resolving disputes that were time-honored and consistent. They remedied wrongs, through restitution or punishment, in ways that were bound by rule. Deviation from these rules evoked objections from those who considered the unalterable.²⁰

This study adopts this approach, and here the focus is not on law “as sets of norms or rules but rather law as practice.”²¹ This is not to question the validity of a normative approach, but rather to recognize the limitations of what can be said about Illinois law at the turn of the 18th century given the source material available. This thesis also situates itself in the broader historiography of legal culture. This can be defined “as a conception of justice and an understanding of legal institutions by individuals or groups that influence their actions.”²² While jurisprudences form an important part of this concept, it stretches beyond this to consider social practices shaped by a given legal setting. This approach has been applied to the study of Early Modern Atlantic history for the past three decades, though

¹⁸ *Ibid.*, p. 33.

¹⁹ *Ibid.*, p. 60.

²⁰ *Ibid.*, p. 33.

²¹ Laura Benton, “In Defense of Ignorance: Frameworks for Legal Politics in the Atlantic World,” in Richard Jeffrey Ross and Brian Philip Owensby, eds, *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, *op. cit.*, pp. 276.

²² Marie Houllemare, “Legal Culture,” dans *Atlantic History*, New York, Oxford University Press, 2016.

infrequently to the study of Indigenous societies – and then mainly to their interactions with colonial legal cultures.²³ The reason for this focus is the limitations of the source material on which historians can build their understanding of historic legal practices in Indigenous societies. This explains why, for the period under study, there are only two studies of specific Indigenous legal systems; namely William B. Newell's *Crime and Justice among the Iroquois Nations* (1965, originally written as an MA dissertation in 1934) and John Phillip Reid's *A Law of Blood: The Primitive Law of the Cherokee Nation* (1970).²⁴ Both of which were written before the establishment of the concept of legal culture. As such, this study has a unique place in the historiographical current of legal culture. Moreover, its focus on language and dictionaries provides a new approach to the study of legal culture. As Hermes notes, "language and law are intertwined, for language gives life to legal concepts."²⁵

This leads to a final point on language; this study is written in English, yet considers French primary sources and, particularly, the translation of Miami-Illinois terms into French. These layered translations pose certain problems. English and French legal terms do not neatly overlap and can have different nuances even when they correspond closely. This is nothing compared to the differences between either of these languages and Miami-Illinois. Language and culture are entwined threads that cannot be separated and

²³ See, for example, Jan Grabowski, "French Criminal Justice and Indians in Montreal, 1670–1760," *Ethnohistory*, vol. 43, n° 3, 1996, pp. 405–429; Katherine A. Hermes, "Jurisdiction in the Colonial Northeast: Algonquian, English and French Governance," *The American Journal of Legal History*, vol. 43, n° 1, 1999, pp. 52–73 ; *Ibid.*, " 'Justice Will Be Done Us': Algonquian Demands for Reciprocity in the Courts of European Settlers," in Christopher L. Tomlins and Bruce H. Mann, eds, *The Many Legalities of Early America*, *op. cit.*, pp. 123–49.

²⁴ William B. (Ta-io-wah-ron-ha-gai) Newell, *Crime and Justice among the Iroquois Nations*, Montreal, Caughnawaga Historical Society, 1965, 92 pp.; John Phillip Reid, *A Law of Blood: The Primitive Law of The Cherokee Nation*, DeKalb (Ill.), Northern Illinois University Press, 1970 2006, 340 pp.

²⁵ Katherine A. Hermes, "The Law of Native Americans, to 1815," *op. cit.*, p. 37.

navigating the cultural differences between Indigenous and European societies is one of the challenges of this work. While a high level of linguistic precision is the touchstone of academic work, here a certain plasticity between English and French terms has been allowed to remain. The reason for this is that an attempt to be overly precise would be, to adapt Saliha Belmessous's term, an act of "ethnological ventriloquism."²⁶ That is to say, it would run the risk of imposing a clarity that does not exist in the source material given that there are no exact translation equivalents for abstract concepts between Miami-Illinois and French.

Historical writing and the Illinois

Moving now from broad histories addressing legal culture to the specific historical and geographical region considered in this study: the *Pays d'en Haut*, and particularly its southern outcrop the *Pays des Illinois* (see Map 1.1). In order to situate the current study in the broader historical writings on these areas, a historiographical review of works that touch on the Illinois legal culture in the 17th and 18th centuries is presented below. To begin with, however, a review of the main primary source materials is given.

²⁶ Saliha Belmessous, "The problem of Indigenous Claim Making in Colonial History," in Saliha Belmessous, ed., *Native Claims: Indigenous Law Against Empire, 1500–1920*, New York, Oxford University Press, 2012, p. 8.

Map 1.1. The *Pays d'en Haut*, late 17th century²⁷



²⁷ Map adapted from Natural Resources Canada, Reference Maps (2002), accessed 18 October 2018, <<https://www.nrcan.gc.ca/earth-sciences/geography/atlas-canada/reference-maps/16846>> with information drawn from Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, pp. xii–xiii; Sophie White, *Wild Frenchmen and Frenchified Indians: Material Culture and Race in Colonial Louisiana*, Philadelphia, University of Pennsylvania Press, 2012, p. x; Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, p. 13.

The corpus of primary sources

The main source of information about Illinois society and culture in the late 17th and early 18th century comes from a document that has been titled “Memoir of De Gannes Concerning the Illinois Country.” This was printed in French and English by Theodore Calvin Pease and C. Raymond in *French Series: The French Foundations, 1680–1693* (1934).²⁸ While the manuscript bears the signature of a certain De Gannes, presumably a scribe, the author was in fact Pierre-Charles de Liette. De Liette was a cousin of Henri de Tonti, who was influential in French colonization in the Mississippi Valley, and probably came to Canada in 1685.²⁹ As a young man he lived amongst the Illinois and Myaamias, learning their language and customs.³⁰ Between 1690 and 1729 he held commands at Fort Saint-Louis (at its different locations), Chicago, Fort Pimétoui, and Fort Chartres (though there is a small possibility that this may have been another De Liette).³¹ The memoir is, in its printed form, slightly under 50 pages long, and provides the most complete account of the Illinois in this period. While it does not appear to have circulated widely in the 18th century, parts of it were used by Antoine-Denis Raudot, the Intendant of New France from 1705 to 1710, in writing his *Relations par lettres de l’Amerique septentrionale* (1709–1710).³² Raudot’s work, in turn, was consulted by Charlevoix when writing his *Histoire*

²⁸ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*; the manuscript is held in the Ayer Collection at the Newberry Library, Chicago, MS 293, v. III, 264–362.

²⁹ Edmund Boyd Osler, “Tonty, Henri,” *Dictionary of Canadian Biography*, vol. 2, 1982, <http://www.biographi.ca/en/bio/tonty_henri_2E.html>.

³⁰ C. J. Russ, “Liette, Pierre-Charles de,” *Dictionary of Canadian Biography*, vol. 2, 1982, <http://www.biographi.ca/en/bio/liette_pierre_charles_de_2E.html>.

³¹ For a biographical sketch see David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, Carbondale (Ill.), Southern Illinois University Press, 2016, pp. 49–53.

³² The most recent edition, used in this study, is Antoine-Denis Raudot, *Relations par lettres de l’Amerique septentrionale: Édition critique par Pierre Berthiaume*, Québec, Presses de l’Université Laval, 1709–1710 2018, 778 pp.

et description générale de la Nouvelle France (1774).³³ Charlevoix, in turn, was one of the sources used in the *Encyclopédie*, as can be seen at the end of the entry for “Sauvages” which reads, “Le P. Charlevoix a traité fort-au-long des mœurs & coutumes des *sauvages* du Canada dans son journal d’un voyage d’Amérique, dont nous avons fait usage dans plusieurs articles de ce Dictionnaire [Fr Charlevoix discussed at length the manners and customs of the *savages* of Canada in a journal of his travels in America, of which we have drawn on in several articles in this dictionary (my translation)].”³⁴ There is no indication, however, that De Liette’s work made its way into the *Encyclopédie*, which means that it was not until the 20th century that the information contained within was subject to scholarly investigation.³⁵ As far as the Illinois legal culture is concerned, the memoir covers topics connected to adultery, hunting law, marriage, murder, as well as the treatment of war captives. Valuable as this is from an ethnohistorical point of view, it does not present a cohesive description of Illinois law. Such an account, at least as concerns the Illinois approaches to hunting law and murder can be found in Nicolas Perrot’s *Mémoire sur les mœurs, coustumes et religion des sauvages de l’Amérique Septentrionale* (c. 1715, first published in 1864).³⁶ Perrot, who was born sometime around 1644, came to New

³³ *Ibid.*, p. 2.

³⁴ Louis De Jaucourt, “Sauvages,” *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers, par une société de gens de lettres*, vol. 14, 1765, p. 729. Such was the manner in which knowledge circulated between North America and Europe in this period.

³⁵ Louis De Jaucourt, “Illinois,” *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers, par une société de gens de lettres*, vol. 8, 1765, p. 556; The first publication of Raudot’s work was Antoine-Denis Raudot, *Relation par lettres de l’Amérique septentrionale (années 1709 et 1710) : Édité et annotée par le P. Camille de Rochemonteix de la Compagnie de Jésus*, Paris, Letouzey et Ané, 1709–1710 1904, 221 pp.

³⁶ Nicolas Perrot, *Mémoire sur les mœurs, coustumes et religion des sauvages de l’Amérique septentrionale*, Montreal, Presses de l’Université de Montréal, 2004 (c. 1715), 576 pp.; an English translation can be found in Nicolas Perrot, “Memoir on the Manners, Customs, and Religion of the Savages of North America,” in Emma Helen Blair, ed., *The Indian Tribes of the Upper Mississippi Valley and Region of the Great Lakes*, translated by Emma Helen Blair, vol. 1, Cleveland, Arthur H. Clark Co., 1911, pp. 31–272.

France around 1660. As a young man he learnt a number of Indigenous languages and became an accomplished fur trader and interpreter, travelling extensively in the *Pays d'en Haut*.³⁷ His father was a “lieutenant responsible for justice in the barony of Darcey in the province of Burgundy” and he had received an education before he arrived in New France, according to Charlevoix.³⁸ This, coupled with his long experience in the *Pays d'en Haut*, makes his work an important source for the Indigenous law in the 17th century, even if he did not write extensively on this topic. Of particular interest are his sections on justice and the bison hunt.³⁹ It has been noted, however, that Perrot takes a “grimmer, more cynical view of Indian customs and frontier than most exploration ethnographies.”⁴⁰ This aside, a reservation needs to be stated as regards this work in that Perrot did not distinguish clearly between different Indigenous societies when he wrote about law. This means that this cannot be taken, on its own, as a source for Illinois law, but needs to be used in conjunction with other material.

Alongside these accounts, the *Jesuit Relations* (JR) is another crucial source, or rather set of sources, through which to view the history of the Illinois in this period, even if they do not deal much with the Illinois conception justice. While very useful to the historian, it has to be borne in mind that they were published in Europe with a view to propagate support for Jesuit missionary activities. This influenced the selection of

³⁷ Claude Perrault, “Perrot, Nicolas,” *Dictionary of Canadian Biography*, vol. 2, 1982, <http://www.biographi.ca/en/bio/perrot_nicolas_2E.html>.

³⁸ *Ibid.* it is not possible to trace the influence that his father’s profession had on Perrot’s view of Indigenous laws, though it does indicate that he was probably more familiar with French legal concepts than others in his position; Nicolas Perrot, *Mémoire sur les mœurs, coutumes et religion des sauvages de l’Amérique septentrionale*, Montreal, Presses de l’Université de Montréal, 2004 (c. 1715), p. 140; Pierre François-Xavier de Charlevoix, *Histoire et Description Générale de la Nouvelle France*, vol. 2, Paris, Didot, 1744, p. 436.

³⁹ Nicolas Perrot, *Mémoire sur les mœurs, coutumes et religion des sauvages de l’Amérique septentrionale*, *op. cit.*, pp. 273–277; 292–294.

⁴⁰ Gordon M. Sayre, *Les Sauvages Américains: Representations of Native Americans in French and English Colonial Literature*, *op. cit.*, p. 330.

materials included in the *Relations*.⁴¹ Beside these key sources, there are a host of travel accounts and histories published in Europe that refer to the Illinois or Myaamias, from the Recollet friar Zenobé Membré's account of his voyage down the Mississippi with La Salle, printed in Chrestien Le Clercq's *Premier établissement de la Foy dans la Nouvelle-France* (1691), to the French aristocrat Constantin-François Chasseboeuf Volney's *Tableau du climat et du sol des États-Unis d'Amérique* (1803).⁴² The information that can be garnered from these accounts as regards the question of Indigenous jurisprudences is limited, but does provide for a broader perspective than those allowed by relying on De Liette and Perrot's work.

Alongside these memoirs, relations and travel accounts are the archives of the French overseas Empire, the *Archives nationales d'outre-mer* (ANOM). These colonial records provide a number of sources connected to the Illinois, though it is the record of speeches given by Illinois leaders following the murder of a French soldier by one André Perillault that is of the most value to this study. Here one can read their thoughts, originally expressed in Miami-Illinois, on the principles of justice. These records provide some of the most detailed enunciations of Indigenous thinking on law from the *Pays d'en Haut*, and contributed to the decision to select the Illinois for this. The other set of manuscript sources that form the backbone of many studies into the French colony in the *Pays des Illinois* are the Kaskaskia Manuscripts (KM). They cover a wide range material, both civil and criminal, including "marriage contracts, wills, inventories, deeds, depositions,

⁴¹ For a discussion on this, see Carole Blackburn, *Harvest of Souls: The Jesuit Missions and Colonialism in North America, 1632–1650*, Montreal and Kingston, McGill-Queen's University Press, 2004, pp. 1–20.

⁴² Chrestien Le Clercq, *Premier établissement de la Foy dans la Nouvelle-France*, vol. 2, Paris, Amable Auroy, 1691; Constantin-François Chasseboeuf Volney, *Tableau du climat et du sol des États-Unis d'Amérique*, *op. cit.*

partnerships, labor contracts, leases, and other transactions” and are valuable resources for understanding how justice was administered at Fort de Chartres.⁴³ They contain some 63 references to Aboriginal individuals, though there is only one case recorded in these manuscripts that casts light on the Illinois conception of justice (that of a plea for clemency by an Illinois leader for a slave of African descent who faced execution).⁴⁴

Each of these has its own values and limitations, though they are all linked by a common problem concerning the authorship and nature of Early Modern sources. The historical record comes from the hand, if not always the voice, of European and Euro-American writers, few of whom were concerned directly in recording the laws of the peoples with which they were in contact. Where one finds references to legal practices and customs it is generally either in relation to cases that involve European interests or in broad descriptions of the “laws, manners and customs” of Aboriginal peoples, such as Perrot’s *Mémoire*, the latter often providing abstract principles rather than specific cases. The number of cases that illustrate Illinois law that can be studied is, therefore, limited and the selection skewed. It is here that a final set of manuscript sources will be of particular use, that of the Miami-Illinois–and–French dictionaries compiled by Jesuit missionaries in the late 17th and early 18th century. These are very rich sources, though underused by historians as they do not lend themselves to traditional forms of historical analysis. Even if they do not offer new cases to study, their use allows this study to provide much greater nuance to those that are recorded in the sources mentioned above. Before

⁴³ Margaret Kimball Brown and Lawrie Cena Dean, *The Kaskaskia Manuscripts, 1708–1816: A Calendar of Civil Documents in Colonial Illinois*, n.l., Illinois State Archaeological Survey, 2014 (1981), p. 5.

⁴⁴ Like “Indigenous,” the term “Aboriginal” is capitalized in this study as it is being used in the same manner as “European.”

these are discussed, however, it is pertinent to trace the historical work that has already been done on the Illinois legal culture.

Studies discussing the legal culture of the Illinois

The modern historiography of French Illinois begins with Clarence Walworth Alvord's *The Illinois Country, 1673–1818* (1920).⁴⁵ This work drew on archival material, particularly the Kaskaskia Manuscripts, that Alvord had uncovered in the summer of 1905.⁴⁶ Alvord touched on the legal culture of the Illinois in the chapter of *The Illinois Country* titled “The Illinois Indians and Their Neighbours.”⁴⁷ His analysis is marred by a resolutely ethnocentric position, for Alvord maintained that, between Europeans and Aborigines, “there was no common meeting ground for a mutual understanding of such terms as law, treaty, honor, and religion; race experience had raised a barrier of confusion.”⁴⁸ Such a position made any analysis of Indigenous law pointless, and Alvord preferred to take up the concept of custom, which he saw as being an all-pervasive means of social control:

The freedom of these prairie children was more a metaphor than a reality; from childhood up they were hedged around by unbreakable custom; habit guided their footsteps, fear of consequences limited their wills. The Illinois particularly noted for the attention they gave to their tribal customs, lived in unusual peace in accord with one another, social opinion vigorously enforcing uniformity, so that punishment for transgressions was rarely necessary.⁴⁹

⁴⁵ Clarence Walworth Alvord, *The Illinois Country: 1673–1818*, Springfield (Ill.), Illinois Centennial Commission, 1920, 524 pp.

⁴⁶ For an overview of the historiography of the area, see Cécile Vidal. “Le Pays des Illinois, six villages français au cœur de l’Amérique du Nord, 1699–1765,” In Thomas Wein, Cécile Vidal and Yves Frenette, eds, *De Québec à l’Amérique française : Histoire et mémoire*, City of Québec, Les Presses de l’Université Laval, 2006, pp. 123–135; Solon J. Buck, “Clarence Walworth Alvord, Historian,” *The Mississippi Valley Historical Review*, vol. 15, n° 3, 1928, p. 310.

⁴⁷ Clarence Walworth Alvord, *The Illinois Country: 1673–1818*, *op. cit.*, pp. 21–53.

⁴⁸ *Ibid.*, pp. 38–39.

⁴⁹ *Ibid.*, p. 43.

While custom and social pressure are important in all societies, the idea of custom acting as an almost magical force in tribal societies was widely accepted at the beginning of the 20th century, though this conception would be dismantled by Bronislaw Malinowski in his *Crime and Custom in Savage Society* (1926).⁵⁰

A number of historical works discussed the *Pays des Illinois* in the middle of the 20th century, notably Natalia Maree Belting's *Kaskaskia Under the French Regime* (1948) and Wayne C. Temple's *Indian Villages of the Illinois Country: Historic Tribes* (1958).⁵¹ However, the subject of the Illinois jurisprudences was only investigated in Raymond E. Hauser's doctoral thesis "An Ethnohistory of the Illinois Indian Tribe, 1673–1832" (1973).⁵² This thesis has been called the authoritative text on the Illinois, and it remains the most complete study to have been produced to date, though in some aspects it is dated.⁵³ Notwithstanding this, the subject of law was not Hauser's main focus, and he only dedicated eight pages to criminal law, discussing murder, adultery and robbery. He also touched on hunting and military laws, though for the latter some of the sources Hauser relied on are problematic.⁵⁴ The thesis also relied heavily on printed sources and does not use either the *Archives nationales d'outre-mer* or the Miami-Illinois dictionaries when

⁵⁰ Bronislaw Malinowski, *Crime and Custom in Savage Society*, London, Routledge & Kegan Paul, 1966, 132 pp.

⁵¹ Natalia Maree Belting, *Kaskaskia Under the French Regime*, Urbana (Ill.), University of Illinois Press, 1948, 140 pp.; Wayne C. Temple, *Indian Villages of the Illinois Country: Historic Tribes*, Springfield (Ill.), Illinois State Museum, 1987, 218 pp.

⁵² Raymond E. Hauser, "An Ethnohistory of the Illinois Indian Tribe, 1673–1832", Doctoral Thesis, Northern Illinois University, 1973 at 273–308

⁵³ M. J. Morgan, "Indians on Trial: Crime and Punishment in French Louisiana on the Eve of the Seven Years' War," *Louisiana History: The Journal of the Louisiana Historical Association*, vol. 50, n° 3, 2009, p. 296.

⁵⁴ Particularly Jean Bernard Bossu, whose writings merge fact and fiction liberally, see Gordon M. Sayre, *Les Sauvages Américains: Representations of Native Americans in French and English Colonial Literature*, *op. cit.*, pp. 176–177.

considering Illinois law, something that this study will be able to contribute to research on this question.

Finally, it is worth noting that Volume 15 of the *Handbook of North American Indians* (1978), contains an article on the Illinois by Charles Callender which provides a short overview of their law and social organization, though the information is drawn almost exclusively from one source, albeit an incredibly important one.⁵⁵ This brings to a close the short list of works that have presented a summary of Illinois jurisprudences in the 18th century. Other studies have, however, considered Indigenous law in the *Pays d'en Haut* in broader terms.

Epistemology and lexicography

Now that the historiographical background of this study has been established, it is important to address the particular type of source that forms a key part of this work: dictionaries. Unlike the other sources used in this research – which include court records, imperial correspondence, memoirs, and transcribed speeches – dictionaries are not usually a central part of historical research, particularly in the history of colonial America. They generally remain the preserve of linguists and, due to their purpose and structure, pose certain difficulties in their use as historical sources. To begin with, it is necessary to consider what a dictionary is, the origin of these sources, what forms they can take and what type of historical information can be drawn from them.

⁵⁵ Charles Callender, "Illinois," in Bruce G. Trigger, ed., *Handbook of North American Indians*, vol. 15, Washington (D.C.), Smithsonian Institution, 1978, pp. 673–80; the source Callendar drew from is Pierre-Charles De Lette, "Memoir of De Gannes [De Lette] Concerning the Illinois Country," *art. cit.*, pp. 302–95.

While this study considers Indigenous conceptions of justice in colonial North America, it is important to note that the majority of sources on which it relies were written by Europeans or settlers of European descent. While Indigenous language dictionaries allow a greater understanding of the concepts, cultures and languages of Aboriginal societies in this period, those who penned them drew on a Western intellectual tradition, conforming to long-established practices that dictated their form and structure. It is important to recognize this, as the Indigenous peoples of North America have a philosophical and rhetorical tradition of their own, which in its 18th century form must often be viewed through the lens of Western interpretations and patterns of thought. Here the form and function of dictionaries is considered as they form a type of historical resource that, in relation to North American Indigenous history, remains virtually untapped.

Form and function of dictionaries

With this in mind, the place of lexicography in historical research can be considered. Lexicography is the “art or practice of writing dictionaries,” as Samuel Johnson’s *A Dictionary of the English Language* (1755) put it.⁵⁶ The *Oxford English Dictionary* includes this definition alongside a more prosaic explanation, though it does not retain his entry for lexicographer as “a writer of dictionaries; a harmless drudge, that busies himself in tracing the original, and detailing the signification of words.”⁵⁷ This nevertheless evokes the hard and tedious work that goes into the creation of these

⁵⁶ Samuel Johnson, *A Dictionary of the English Language in which the Words are Deduced from their Originals and Illustrated in their Different Significations by Examples from the best Writers*, 1755, vol. 2.

⁵⁷ “Oxford English dictionary,” 2000, <<http://dictionary.oed.com/entrance.dtl>>; Samuel Johnson, *art. cit.*, vol. 2.

reference works. The dictionaries that are used as historical sources in this study are all bilingual and unidirectional dictionaries, that is to say they do not have both a Miami-Illinois-to-French and a French-to-Miami-Illinois section.⁵⁸ From a historical perspective the dictionaries that are used in this study cannot be considered as being independent from the context of their compilation. Understanding the lexicographers' social position, ideology, as well as their implicit and explicit biases is key to using these dictionaries as historical sources. The practice of writing was also a collaborative one. While the final dictionaries are distinctly European objects, their construction was a joint process between French missionaries and their Indigenous interlocutors. The latter's perspectives, situations, and values also need to be considered when using these sources in historical research.

Turning now to the object itself, a dictionary is the final product of lexicography, so it is necessary to define what is meant by this, at least insofar as the term was employed in the period under study. For this one can turn to the definitions in two key dictionaries from the late 17th and 18th centuries. The entry for "Dictionnaire" in the 1694 edition of the *Dictionnaire de l'Académie Française* is classed under "Dire [to say]" and is given below:

Vocabulaire, recueil par ordre de tous les mots d'une langue.
Dictionnaire François, dictionnaire Latin, dictionnaire François-Latin,
dictionnaire par ordre alphabetique, dictionnaire par ordre des racines,
par racine, bon dictionnaire, ample dictionnaire.

On dit aussi, Dictionnaire Poétique-historique, historique-Geographique
&c.⁵⁹

[Vocabulary, an ordered compilation of all the words in a language.
French dictionary, Latin dictionary, French-Latin dictionary, alphabetic

⁵⁸ Beryl T. S. Atkins and Michael. Rundell, *The Oxford Guide to Practical Lexicography*, Oxford, Oxford University Press, 2008, p. 40.

⁵⁹ L'Académie française, *Le Dictionnaire de l'Académie française*, vol. 2, Paris, Jean Baptiste Coignard, 1694, p. 203.

dictionary, a dictionary ordered by roots, by root, good dictionary, full dictionary.

One says as well, A literary-historic dictionary, historical-geographical, &c. (my translation)].⁶⁰

Slightly later, *A Dictionary of the English Language* defined a dictionary as “A book containing the words of any language in alphabetical order, with explanations of their meaning; a lexicon; a vocabulary; a word-book.”⁶¹ These two entries provide the essential elements that need to be considered. Dictionaries are ordered, normally alphabetically though this can also be by word roots or under headings.⁶² The term can be applied to various types of work, from lexicons to broader reference works. The essential feature of a dictionary, aside from their structured format, is that they are reference works. They are not written as ends in themselves, but tools to assist in other endeavours, such as translation or scholarly research.

The relatives of dictionaries can be traced back to some of the earliest written records of ancient Mesopotamia. Archaeologists have found word lists inscribed on clay tablets that were used by scribes learning the intricacies of cuneiform writing.⁶³ The impulse for scribes to use such lists as tools can be seen as a product of written communication, and the “ancient civilisations of the Near and Middle East, the Mediterranean, and China invented almost all the lexicographical products that were

⁶⁰ The territory known to the French as the *Pays des Illinois* is now part of the US. Considering this, and in order to make this work accessible to those who are not fluent in French, English translations have been provided throughout. I have indicated where these are my, though existing translations have generally been used. Some of these are dated, though I have only made corrections when there are errors or omissions. Of course, the original French should always be referred to in any historical analysis.

⁶¹ Samuel Johnson, *A Dictionary of the English Language in which the Words are Deduced from their Originals and Illustrated in their Different Significations by Examples from the best Writers*, 1755, vol. 1.
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⁶³ See Jean-Claude Boulanger, *Les inventeurs de dictionnaires : de l'eduba des scribes mésopotamiens au scriptorium des moines médiévaux*, Ottawa, Presses de l'Université d'Ottawa, 2003, chap. 2.

compiled afterwards.”⁶⁴ To trace the origins of Early Modern dictionaries, however, one has to turn to the European Middle Ages.⁶⁵ The Church’s earliest impact on the Miami-Illinois manuscripts was, intriguingly, a technical one, and concerns their format: the codex or bound book. It was “a puzzling peculiarity of their literature” that the early Church “with remarkable consistency recorded their sacred writings not in the conventional form of the scroll, like their Jewish predecessors and like everyone else in the ancient world, but in gatherings of sheets of parchment or paper in the form of our modern book.”⁶⁶ This format was possibly adopted due to “a constant need to flick between one text and another, Gospel and prophecy” which was easier with books laid side by side than in scrolls.⁶⁷ In any case, the dictionary as a reference source is tied to the physicality of the book (or codex, to use the technical term). Books are such familiar objects that it can often be hard to consider that they are any more than a “volume in which we read or write,” as Samuel Johnson’s dictionary indicated.⁶⁸ The *Dictionnaire de l’Académie Française* was more accurate, noting that a *livre* was a “Volume, plusieurs feuilles de papier, velin, parchemin, ou autre chose semblable, écrites à la main ou imprimées, & reliées ensemble avec une couverture... [A volume, several leaves of paper, vellum, parchment, or similar materials, written by hand or printed, & bound together with a cover... (my translation)].”⁶⁹ The key principle here is that books are bound with a spine and therefore much easier to move through than other formats, such as a scroll. Dictionaries are reference works that are

⁶⁴ Henri Béjoint, “Dictionaries for General Users: History and Development; Current Issues,” in Philip Durkin, ed., *The Oxford Handbook of Lexicography*, Oxford, Oxford University Press, 2016, p. 8.

⁶⁵ For a succinct overview of the development of bilingual dictionaries see Jean-Claude Boulanger, “Quelques causes de l’apparition des dictionnaires bilingues. Un retour vers les civilisations lointaines,” *Approches contrastives en lexicographie bilingue*, n° 2, 2000, pp. 89–105.

⁶⁶ Diarmaid MacCulloch, *Christianity: The First Three Thousand Years*, New York, Viking, 2010, p. 158.

⁶⁷ *Ibid.*

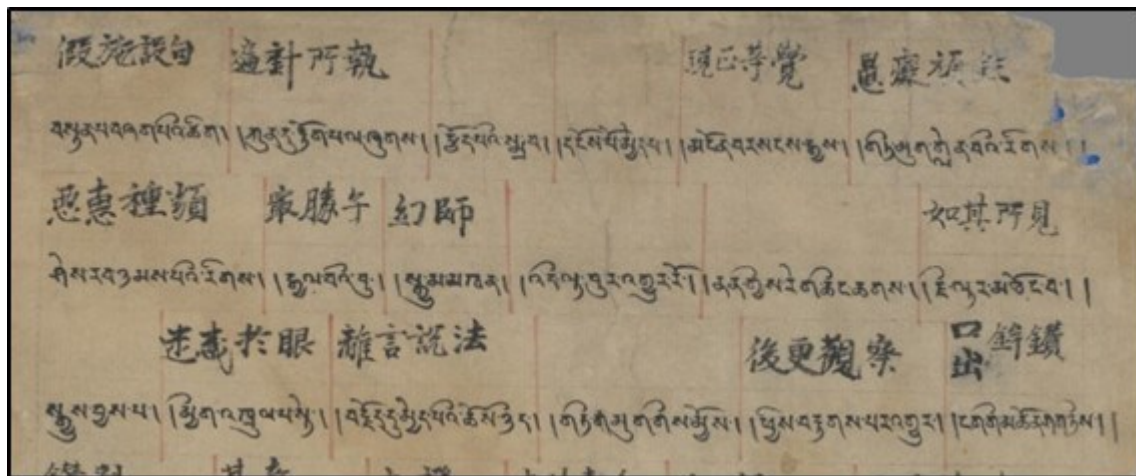
⁶⁸ Samuel Johnson, *art. cit.*

⁶⁹ L’Académie française, *Le Dictionnaire de l’Académie française*, *op. cit.*

designed to be consulted and searched through, actions that are (at least before the recent development of digital dictionaries) essentially linked to the format of the physical object.

This, of course, only concerns the development of dictionaries in the West. Other traditions developed in different cultural and linguistic settings, with their own structures and formats. To take one example, the *Bibliothèque nationale de France* (BnF) holds the manuscript Pelliot tibétain 1257. This 8th-century manuscript from the ancient city of Dunhuang listed “approximately 570 Buddhist terms in both Tibetan and Chinese.”⁷⁰ A copy of folio 5a shows a very different approach to lexicography, though one that shares certain characteristics with European traditions (see Figure 1.1).

Figure 1.1. Another lexicographic tradition, a Tibetan–Chinese glossary⁷¹



In this example, “terms are written in rows from left to right across each folio with the Tibetan written evenly on a faint horizontal line and the corresponding Chinese characters appearing above the Tibetan. Red lines form unevenly distributed columns vertically across the folios and separate individual sets of Tibetan-Chinese terms.”⁷²

⁷⁰ James B. Apple and Shinobu A. Apple, “A Re-evaluation of Pelliot tibétain 1257: An Early Tibetan-Chinese Glossary from Dunhuang,” *Revue d’Etudes Tibétaines*, n° 42, October 2017, p. 85.

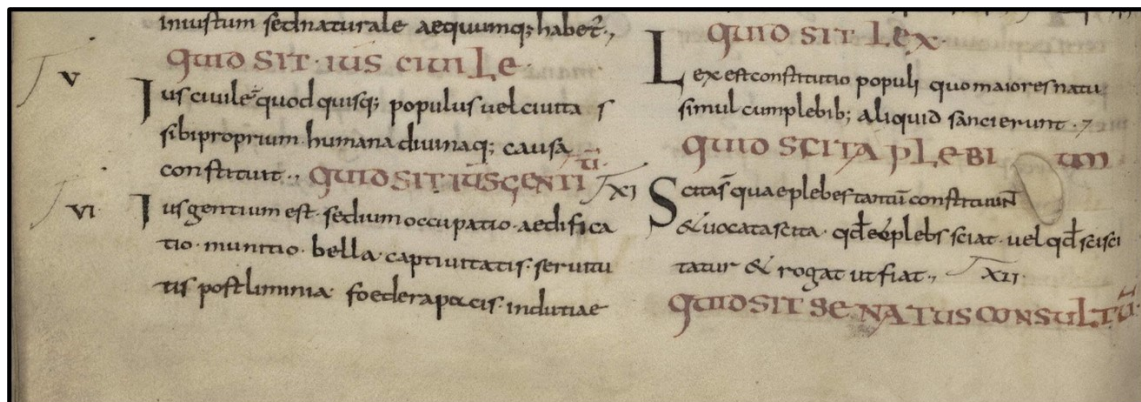
⁷¹ Pelliot tibétain 1257, 5a (public domain; source BnF, gallica.bnf.fr).

⁷² James B. Apple and Shinobu A. Apple, “A Re-evaluation of Pelliot tibétain 1257: An Early Tibetan-Chinese Glossary from Dunhuang,” *art. cit.*, p. 85.

Medieval scholarship

The Miami-Illinois dictionaries considered in this study are entwined with the missionary efforts of the Jesuits, which was an essential aspect of their compilation. Indeed, the tradition of dictionary writing they are part of grew out of medieval Christian scholarship.⁷³ A precursor of the dictionary can be seen in the work of Isidore of Seville, a Spanish saint and voracious scholar who was roughly contemporaneous with the authors of Pelliot tibétain 1257. He compiled an etymological encyclopedia in the early 7th century “in which he aimed to describe everything an educated person ought to know, ranging from the feeding habits of hedgehogs to the geographical arrangement of the world’s continents.”⁷⁴ Figure 1.2 reproduces his entry for “Quid sit lex [What a law is]” in a 9th-century manuscript, which is given as “a rule for a people – through it those who are nobler by birth, along with the common people, have ordained something.”⁷⁵

Figure 1.2. “Quid sit lex” in the *Etymologies* of Isidore of Seville⁷⁶



⁷³ While the Society of Jesus was a product of the Early Modern counter-reformation, their intellectual roots drive deep into the bedrock of the medieval Christian West.

⁷⁴ Dan Jones, *Powers and Thrones: A New History of the Middle Ages*, London, Viking, 2021, p. 391.

⁷⁵ Isidore of Seville, *The Etymologies of Isidore of Seville*, Cambridge, Cambridge University Press, 2006, p. 118.

⁷⁶ *Ibid.*, *Etymologies*, V:x, Laon, Bibliothèque municipale: second quarter of the 9th century, f. 45r (public domain; source Bibliothèque municipale Ville de Laon France, bibliotheque-numerique.ville-laon.fr).

This is not a dictionary, of course, and it is removed by 800 years and thousands of kilometres from the period and place that is the focus of this research. Yet it marks a starting point, as it is a distant relative of the Indigenous language dictionaries that will form a key part to this study.

The topic that Isidore of Seville was addressing in this section of his *Etymologies*, the nature of law and justice, are also the object of this work. Isidore was also writing in a world that was in flux, one in which was still marked by the disintegration of the classical Roman world and the shift of power to newcomers whose conception of the world was markedly different than that of the classical tradition that Isidore was steeped in. This shift led, if slowly, to new approaches to knowledge. These would flourish, first in monastic schools and scriptoria, then in medieval universities. It is in the High Middle Ages that one begins to find works that resemble modern dictionaries, stimulated by the emergence of a broad community of scholars. It is also in this period that the word “dictionary” originated, springing from the post-classical Latin *dictionary*, meaning a wordbook or collection of phrases. In the 13th century it was used to describe books for learning Latin, coined at the University of Paris by the English poet and scholar John of Garland.⁷⁷ The term *dictionary* was also used as the name for an “alphabetized encyclopedic guide to the Vulgate Bible.”⁷⁸ This was only one of a host of terms employed in the Middle Ages that were connected to linguistic and reference works, such as *abecedarium*, *alphabetarium*, *catholicon*, *glossarium*, or *vocabulary*.⁷⁹

⁷⁷ Jean-Claude Boulanger, *Les inventeurs de dictionnaires : de l'eduba des scribes mésopotamiens au scriptorium des moines médiévaux*, op. cit., p. 442; John Considine, “The history of the concept of lexicography,” *History of Linguistics 2014 : Selected papers from the 13th International Conference on the History of the Language Sciences (ICHoLS XIII)*, Vila Real, Portugal, 25–29 August 2014, 2016, p. 33.

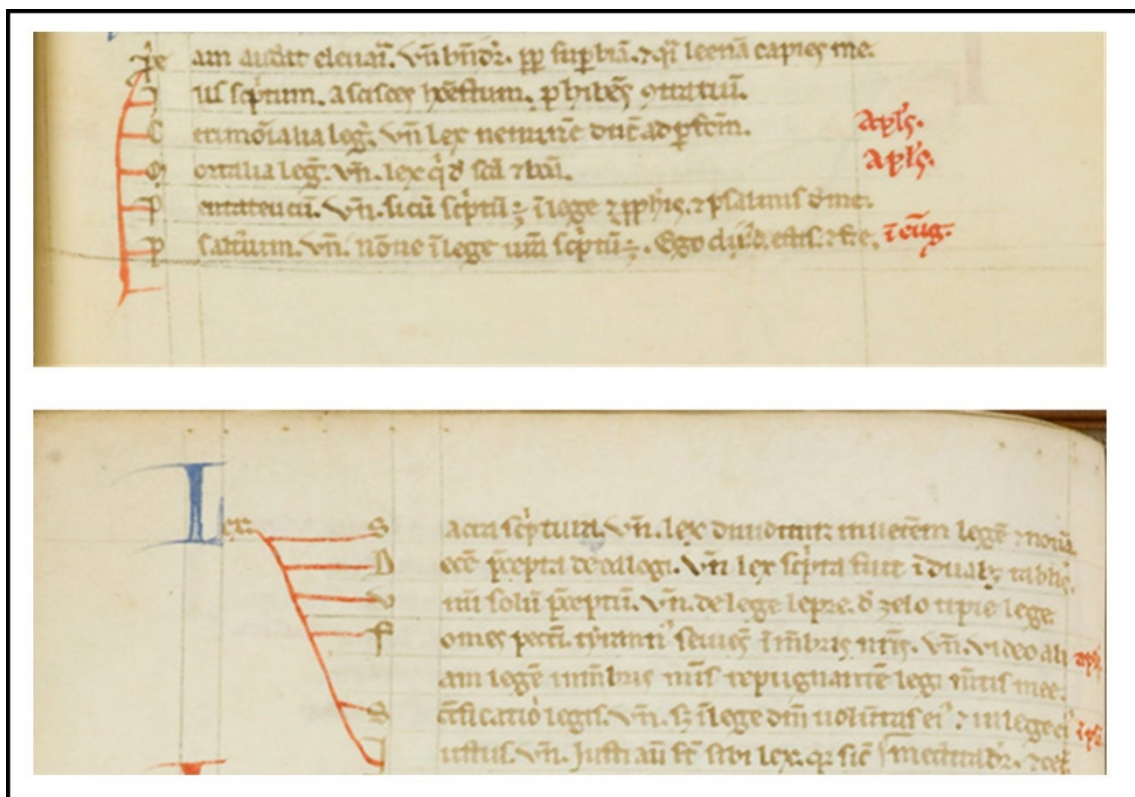
⁷⁸ Dictionary in “Oxford English dictionary,” art. cit.

⁷⁹ Jean-Claude Boulanger, *Les inventeurs de dictionnaires : de l'eduba des scribes mésopotamiens au scriptorium des moines médiévaux*, op. cit., p. 459.

The conclusion to be drawn from an examination of the dictionary-like works of medieval Latin Christendom is that “dictionary” simply was not an actor’s category for their makers or, as far as can be seen, for their users. And observer with access to the modern conceptual category “dictionary” may say that Balbi’s *Catholicon* was a dictionary, but an actor like Balbi himself or one of the hundred of scribes who made copies of the *Catholicon* did not have the conceptual category available to him.⁸⁰

An example of one of these types of reference works is shown in Figure 1.3, where the entry for “lex [law]” in the *Theologicum doctrinale* written by the 12th-century Abbot of Saint-Gilles sur le Rhône, Alain du Pui.

Figure 1.3. “Lex” in Alain du Pui’s *Theologicum doctrinale*⁸¹



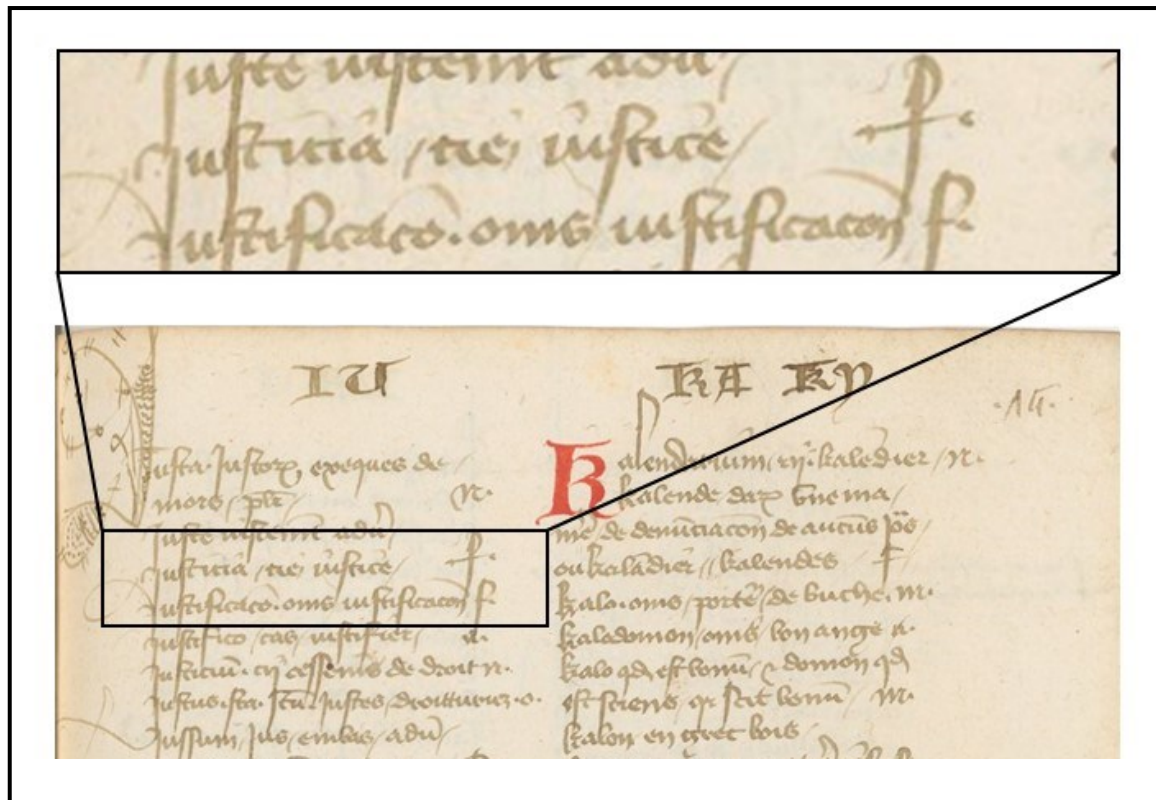
The alphabetical organization of information is clear, if done in what appears to a modern eye as an original manner, with coloured lines being used to connect head words, like *lex*,

⁸⁰ John Considine, “The history of the concept of lexicography,” *art. cit.*, p. 33.

⁸¹ Alain du Pui, *Theologicum doctrinale*, Bibliothèque municipale de Toulouse, early 14th century, f. 84 (public domain; source BnF, gallica.bnf.fr).

with the relevant information. By the 15th century, one can find more regular examples of bilingual dictionaries that are the precursors to the Miami-Illinois–and–French dictionaries, such as the *Miroir des nouveaux écoliers*, a Latin–to–French dictionary (see Figure 1.4).

Figure 1.4. Entry for “iustitia” in the *Miroir des nouveaux écoliers*⁸²



With the development of printing, dictionaries could be produced in cheaper and more accessible formats. It is at the dawn of the Early Modern Period that the word *dictionary* begins to find its way into European languages, as can be seen from the Oxford English Dictionary, “French *dictionnaire* (1499 as *dictionnaire*, glossing Latin *dictionary*), Spanish *diccionario* (c1400 as *dicionario*, denoting a specific work),

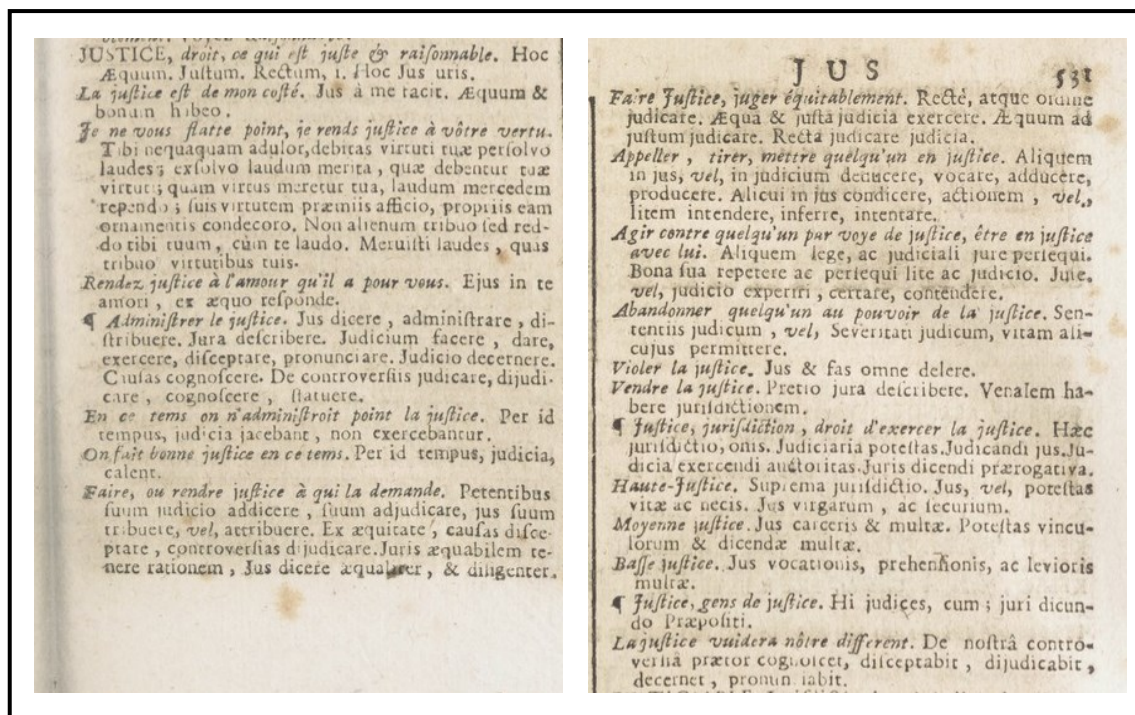
⁸² *Miroir des nouveaux écoliers* [Latin–to–French dictionary], BnF, Département des manuscrits, 15th century, f. 75r (public domain; source BnF, gallica.bnf.fr).

Portuguese *dicionário* (1563), Italian *dizionario* (c1555).⁸³ It is also in this period that the dictionary began to take on a more familiar form.

Early Modern dictionaries

Dictionaries are primarily word lists, either providing explanations of words and their usage, as in *A Dictionary of the English Language*, or their translation into another language, such as François-Antoine Pomey's French-to-Latin dictionary *Le Dictionnaire royal* (1716, see Figure 1.5).

Figure 1.5. "Justice" in *Le Dictionnaire royal* ⁸⁴



Of interest in this entry is the use of explanatory phrases, a key element in making dictionaries practical tools, and one that is of crucial importance in the Miami-Illinois-and-French dictionaries.

⁸³ Dictionary in "Oxford English dictionary," *art. cit.* (italicization follows the original).

⁸⁴ François-Antoine Pomey, *Le Dictionnaire royal, augmenté de nouveau, et enrichi d'un grand nombre d'expressions élégantes [...] Dernière édition, nouvellement augmentée de la plus grande partie des termes de tous les arts*. Lyon, L. Servant, 1716, p. 531 (public domain; source BnF, gallica.bnf.fr).

While two-way dictionaries existed in the 18th century, such as the *Dictionnaire Royal, François et Anglois* (1772), they were by no means the standard. Dictionaries could attempt to encompass the vocabulary of the whole of a language, such as *Dictionnaire de l'Académie Française*, or at least those parts of the language the authors saw as pertinent or edifying; “Quant au termes d’emportement ou qui blessent la Pudeur, on ne les a point admis dans le dictionnaire, parce que les honnestes gens évitent de les employer dans leurs discours [As concerns terms of high passion or that offend modesty, we have not allowed them into the dictionary, as honest persons avoid using them in their speech (my translation)],” notes the preface of the *Dictionnaire de l'Académie Française*.⁸⁵ While some dictionaries omitted technical terms, others were written to provide glosses of specialized vocabulary, such as the *Dictionnaire de Droit et de Pratique* (1749), which is used in this study as a reference source for 18th-century legal terminology. The term can also be employed for much broader reference works, as it was used by Denis Diderot and Jean le Rond d’Alembert in the title of their famous encyclopedia: *Encyclopédie, Ou Dictionnaire Raisonné Des Sciences, Des Arts et Des Métiers, Par Une Société de Gens de Lettres* (1765), or the geographical dictionary of Claude-Marin Saugrain, *Dictionnaire universel de la France ancienne et moderne et de la Nouvelle France* (1726).⁸⁶

What binds these various sources together is that they are primarily tools, reference works to be used in conjunction with other endeavours. This research focusses on Miami-

⁸⁵ L’Académie française, *Le Dictionnaire de l'Académie française*, *op. cit.*, preface, 2. The Jesuit authors of the Miami-Illinois–and–French dictionaries preferred to include such phrases as understanding them could be of practical value, though they tended to use a latin gloss in such cases.

⁸⁶ These have more in common with Isidore of Seville’s Etymologies than a bilingual dictionary. The entry for “Illinois” in the *Dictionnaire universel de la France* is of interest as the author had reliable sources of information and correctly provides <Inouca> as the proper name for the Illinois, providing the definition as “Peuple qui parle bien [People who speak well],” vol. 3, Paris, Saugrain (Père), La veuve J. Saugrain, Pierre Prault, 1726, p. 1246.

Illinois–and–French dictionaries, which contain word lists, examples of usage and occasional commentaries. They fall closest in type to *Le Dictionnaire royal* (1716) and *Dictionnaire Royal, François et Anglois* (1772), and have little in common with the *Dictionnaire universel de la France ancienne et moderne et de la Nouvelle France* (1726). They differ in one important aspect: they were manuscripts. While they retained the essential feature of the other dictionaries, being reference sources, they were made for a restraint and particular audience, that of the Jesuit missionaries.

Epistemology

The term dictionary can refer, therefore, to a wide range of reference works. This study is concerned with a set of linguistic sources that form a particular subgenre in the wider field of Early Modern dictionaries. Such dictionaries can be objects of historical study in their own right, as archival objects. However, of interest here is their role as part of a corpus of historical sources from which relevant historical information can be drawn to explore a particular subject (such as conceptions of justice). Here the uses of bilingual unidirectional dictionaries will be considered, though the principles can apply more broadly.

The Early Modern period saw a growth in scholarly interest in languages, both within and outwith Europe. Bilingual dictionaries, developing from late medieval Latin and vernacular dictionaries began to be increasingly published. This saw the increase in production of bilingual (not to mention multilingual) dictionaries.⁸⁷ These types of dictionary are specialized, of interest to a specific group rather than the (literate)

⁸⁷ John Considine, “The history of the concept of lexicography,” *art. cit.*, p. 318.

population at large. The Miami-Illinois language dictionaries circulated amongst a highly restrained group. However, they were part of a wider set of linguistic sources being created in North America. Only a few would be published in Europe, though there was curiosity for word lists, or vocabularies, of Indigenous languages. Take for example, the publication of Gabriel Sagard's *Dictionnaire de la langue huronne* published in his *Grand Voyage du pays des Hurons* (1632), which is the oldest extant Indigenous language dictionary.⁸⁸ Its entries cover 138 pages, in two columns.⁸⁹ The first Algonquian language dictionary to be printed is that of Baron Lahontan (1703).⁹⁰ Much shorter than Sagard's, it covered only 17 pages.⁹¹ The first printed source on Miami-Illinois was Constantin-François Chasseboeuf Volney's *Vocabulaire de la langue des Miamis* (1803).⁹² This ten-page word list was obtained "during a visit to Philadelphia by Miami Chief Little Turtle and his interpreter, William Wells, in 1795."⁹³ It is interesting to note that both Lahontan and Volney's works were rapidly translated into English, as *New Voyages to North America* (1703) and *A view of the Soil and Climate of the United States of America* (1804). This illustrates the importance of such information and its role in colonization, of which language played an important part in the colonial period.⁹⁴ Though they share the

⁸⁸ Fannie Dionne, "Encre la parole : Écrit et oralité dans les dictionnaires jésuites en français et wendat (XVII^e–XVIII^e siècles)," Montreal, McGill University, 2020, p. 80.

⁸⁹ Gabriel Sagard, "Dictionnaire de la langue huronne", in *Le grand voyage du Pays des Hurons, situé en l'Amérique vers la Mer douce, és derniers confins de la nouvelle France, dite Canada*, Paris, Denys Moreau, 1632. The dictionary is found at the end of the volume and its pages are numbered separately.

⁹⁰ Fannie Dionne, "Encre la parole : Écrit et oralité dans les dictionnaires jésuites en français et wendat (XVII^e–XVIII^e siècles)," *op. cit.*, p. 123.

⁹¹ Louis Armand de Lom D'Arce Lahontan, 'Petit dictionnaire de la langue des sauvages' in *Mémoires de l'Amérique septentrionale, ou la suite des voyages de Mr. Le Baron de Lahontan*, The Hague, Chez les Frères l'Honoré, 1703, 197–220.

⁹² Constantin-François Chasseboeuf Volney, *Tableau du climat et du sol des États-Unis d'Amérique*, Paris, Courcier & Dentu, 1822 (1803), pp. 465–467.

⁹³ David J. Costa, *The Miami-Illinois language*, Lincoln (Nebr.), University of Nebraska Press, 2003, p. 14.

⁹⁴ See Ursula Haskins Gonthier, "Une colonisation linguistique ? Les Mémoires de l'Amérique septentrionale de Lahontan," *Études françaises*, vol. 45, n° 2, 2009, pp. 115–129.

unidirectional nature of the Miami-Illinois–and–French dictionaries, Lahontan and Volney’s word lists are too short to be considered as dictionaries proper, particularly if one considers that they lacked the essential element of the dictionary: that of being a practical instrument.

In contrast to these, the manuscript Miami-Illinois–and–French dictionaries are densely packed and include a wide-ranging vocabulary. They were tools designed to be used by those learning and using the language in their daily lives. They stand apart from most other Early Modern dictionaries mentioned above in that they were connected to an entirely oral, rather than written, use of the language. That is to say, they took on some of the character of phrase books. This gives them a greater value for historical research than simple word lists, as the type of phrases that the Jesuits chose to record is indicative of their experiences and preoccupations. This feature will be discussed later in this study. Here it is useful to categorize the ways in which these sources can be employed by historians. As mentioned, these are (mostly) bilingual and unidirectional. It should be noted that the Jesuit missionaries used Latin as well as French in their gloss, particularly in cases where the translation was considered vulgar. A Miami-Illinois word or phrase is listed with its French (or Latin) equivalent, or explanation. The structure, then, is of translation from the compiler’s second language (L_2) to their first language (L_1), or vice versa.⁹⁵ This format can be termed a decoding dictionary. This type of reference work normally has the function of helping a L_1 speaker in “understanding the meaning of a word” in the L_2 and “translating from a foreign language text into their own language.”⁹⁶

⁹⁵ The Pinet manuscript (PN) has a L_1 to L_2 format, with French phrases followed by their Miami-Illinois equivalents.

⁹⁶ Beryl T. S. Atkins and Michael. Rundell, *The Oxford Guide to Practical Lexicography*, *op. cit.*, p. 25.

Concerning the Miami-Illinois–and–French dictionaries, however, the translation was taking place in an oral, not textual, context.

Standard lexicographic terminology classifies the language from being translated as the source language and the translation as the target language.⁹⁷ This would make Miami-Illinois the source language in the Largillier and LeBoullenger manuscripts and French (and Latin) the target language, and vice versa in the Pinet manuscript. However, target language also has the meaning of “a foreign language which it is aimed to learn or acquire” and in this sense Miami-Illinois is the target language in all of these dictionaries.⁹⁸ Despite being unidirectional, these sources could also be used as encoding dictionaries, by working backwards from the L₂ to L₁ in order to use terms correctly, and as a tool for those learning the language.⁹⁹ This was facilitated in the LeBoullenger dictionary by the use of alphabetically ordered French headwords, under which Miami-Illinois terms were grouped. This L₂ and L₁ format creates certain peculiarities in these sources, and other Indigenous to French dictionaries; even when the compilers mastered the L₂, they were living and working in a culture with markedly different culture roots than their own. The translation of terms from L₂ to L₁ (and L₁ to L₂) may not have had a linguistic or cultural equivalent, or they may have misunderstood key aspects of the society whose language they were studying (and, naturally, the three centuries that have passed since these were written adds another layer of difficulty in interpretation).

⁹⁷ *Ibid.*, p. 40.

⁹⁸ “Oxford English dictionary,” *art. cit.*

⁹⁹ Beryl T. S. Atkins and Michael. Rundell, *The Oxford Guide to Practical Lexicography*, *op. cit.*, p. 40.

Translations

Bearing this in mind, bilingual dictionaries from the Early Modern Period generally, and the Miami-Illinois–and–French dictionaries specifically, present five approaches which historians can employ when using them as historical sources.

1. The first approach is to consider the translation of isolated terms from L_2 into L_1 . Of course, even the translation of simple words can be complicated if they had no equivalent in the L_1 , though such problems of equivalence can be revealing. These terms can also help illustrate the culture and preoccupations of both L_1 and L_2 speakers in a given historical period.
2. The second approach is to study the definitions and descriptions for the terms that are translated. These are included either because the L_2 term does not have a translation equivalent that can be rendered in the translator's L_1 , the phrase has a plurality of meanings that need to be explained, or there is a particular context that the author wishes to note.
3. The third approach is to compare entries. This can be done by considering entries that are grouped around subject headings or following the author's cross-referencing. It can also be done by comparing similar words or morphemes in the dictionary, and indeed across several dictionaries of the same type. This latter approach can be very revealing; when dealing with more abstract concepts, significant variations in translation can be found even between closely related languages.¹⁰⁰

¹⁰⁰ See the issues surrounding the translations legal terms raised in Alain Duval, "Nul ne peut-il ignorer la loi dans les équivalences culturelles entre le français et l'anglais?" in Thomas Szende, ed., *Les écarts culturels dans les dictionnaires bilingues*, Paris, Honoré Champion, 2003, p. 67.

4. The fourth approach is to review contextual or explanatory phrases included alongside translations. While not all dictionaries included these, this was an established practice in unilingual and bilingual dictionaries in the Early Modern period (see, for example, Figure 1.5). As has been mentioned, the Indigenous language dictionaries also had the function of phrase books. These can be very interesting for the contextual information they provide, as they refer to circumstances that the compilers thought relevant both to their missionary work and everyday life.
5. Finally, it is necessary to consider the process by which the entries were compiled. What is included, and excluded, in dictionaries can be revealing.

Decisions about what to put into dictionaries can be:

- i. Technical: the length of the dictionary, for example, limits the amount of information that could be contained within;
- ii. Functional: as tools, the dictionaries are aimed at a specific audience who needs to know certain terms to accomplish their tasks;
- iii. Cultural: the institutions to which authors belong, their gender and their social status all have an impact on the terms chosen and the definitions given; and
- iv. Informational: the compilers of language dictionaries have varying degrees of knowledge of the languages and societies on which they are writing. For example, the Jesuits relied on the help of Indigenous interlocutors when compiling the Miami-Illinois-and-French dictionaries. These, in turn, could choose what information they were willing to share with the Jesuits.

Each of the subsequent chapters will consider, and apply, one of these approaches. These will be built on progressively throughout the study. This means that the approach to the source material will differ as the work progresses. Nevertheless, each chapter will be bound, like folio leaves in a book, by the common themes of language and law.

Language and limitations

As has been seen, the legal culture of the Illinois is a subject that has not been afforded much detailed study. This study will contribute to this in addressing what more the extant sources can add about Illinois jurisprudences in the 17th and 18th centuries. It will do this particularly through harnessing linguistic sources, and so it is important to consider how the Miami-Illinois language entered the historical record, as well as the limitations that are to be found in this form of material. It is worth reiterating here that the source material for this period is, predominantly, written in French, with the partial exception of the Miami-Illinois–and–French dictionaries, given their bilingual nature. In the early 18th century, Illinois culture remained predominantly oral and the transition to a written culture would occur after the end of the French regime in North America. Their own records in this period took various oral forms supported by certain material devices, such as the painted hides gifted to the missionary Marquette.¹⁰¹

Only a small part of what must have been a rich and vibrant Oral Tradition appears to have survived.¹⁰² The cultural fragmentation brought on by colonization and the loss of

¹⁰¹ Three Illinois painted hides that were kept in the royal “cabinet of antiquities” in the 18th century. These are likely to have been given to Marquette during his 1673 expedition down the Mississippi. They mix cultural motifs from the Eastern Woodlands and the Plains, indicative of the cultural changes that occurred in the 17th century. These can be consulted online at <www.quaibranly.fr/fr/explorer-les-collections>. *Robes peintes*, c. 1650–1750. Musée du Quai Branly – Jacques Chirac, Catalogue numbers 71.1878.32.131, 71.1878.32.132 and 71.1878.32.133.

¹⁰² Capitalization is used for “Oral Traditions” in order to emphasize their importance, as per Younging’s *Elements of Indigenous Style: A Guide for Writing by and about Indigenous Peoples* (2018).

first language speakers in the mid-twentieth century were significant factors in this. Attempts to elicit legal principles from these types of records, primarily from stories, has been undertaken elsewhere, and forms an important approach to revitalizing Indigenous law.¹⁰³ While this is a very interesting way to understand the values and principles that underlie Indigenous legal systems, there is a significant difference in the historical and revitalizing approaches to law. The challenge of a legal scholar working in the revitalization of law is to understand the values and principles that can be adapted to modern legal situations. On the other hand, the historical approach attempts to establish what the legal culture was in a particular time and place. Temporal and cultural distance means that this is something that can only be seen through a glass, darkly. To analyse stories to better understand past legal systems requires them to be recorded during (or relatively close to) the period under study, as Oral Traditions change with time. The stories that were recorded from Miami-Illinois speakers were done so in the early 20th century, some two hundred years after the period being considered here.¹⁰⁴ As such, their use as historical sources for this study is limited. Furthermore, it would not be appropriate for the author to attempt a detailed analysis as such an approach requires a more intimate knowledge of the culture in question than can be gained solely from historical research. In the present work, stories translated from Miami-Illinois, or recounted in English, will

¹⁰³ The Accessing Justice and Reconciliation Project has applied such methods to Indigenous laws in Canada. For an overview of the methodology applied see Hadley Friedland and Val Napoleon, "Gathering the Threads: Developing a Methodology for Researching and Rebuilding Indigenous Legal Traditions," *Lakehead Law Journal*, vol. 1, n° 1, 2015, pp. 16–44; The work of the legal scholar John Borrows is also important in this regard, see for example John Borrows, *Recovering Canada: The Resurgence of Indigenous Law*, Toronto, Buffalo, and London, University of Toronto Press, 2002, 312 pp; of note as well is Lindsay Keegitah Borrows, *Otter's Journey through Indigenous Language and Law*, Vancouver, UBC Press, 2018.

¹⁰⁴ Until recently, most of these lay dormant in archival boxes. As such no work has been done on their legal content. They were published in 2010 in Miami-Illinois and English, see David J. Costa, *myaamia neehi peewaalia aacimoona neehi aalhsoohkaana: Myaamia and Peoria Narratives and Winter Stories*, op. cit.

only be called upon when they clearly address a point of law – which is infrequent in those that are extant – or when they help illustrate an aspect of culture from the period being studied. This is not to say that Illinois voices are lacking from the historical record, though they are most often to be heard in translation. A key reason why this study is concerned with the Illinois conception of justice rather than that of, say, the Myaamia, is that in the brief historical window of the early 18th century we have records of speeches of Illinois Chiefs that are among the clearest and most detailed discourses on Indigenous justice from the colonial period of North America.

Initial nonverbal communications

As a member of the Algonquian language family, Miami-Illinois would have had familiar words and cadences to the ears of the first French missionaries and traders who encountered it, as they had long-standing contacts with other members of this language family. This would not have been true for the Miami-Illinois speakers, for whom this was their first encounter with an Indo-European language, at least since the De Soto incursion a century-and-a-half before. The geographical extent of the Algonquian languages is impressive, stretching from the eastern seaboard to the Rockies and from the Arctic to the Mississippi River and west onto the Great Plains. Naturally, there is a high diversity amongst Algonquian languages, and missionaries or interpreters who had learnt Abenaki in the environs of the City of Québec, for example, would not be able to communicate in Miami-Illinois. Because of this, initial communication between the French and Illinois took the form of signs. While no doubt those learning the language would have employed any number of gestures and repetitions, these are not the signs that are meant here. Rather, the French were already well versed in the diplomatic symbolism that was part of the

lingua franca or “international auxiliary language” of the *Pays d’en Haut*.¹⁰⁵ The account of Father Marquette’s 1673 expedition down the Mississippi alludes to this. For example, when approaching a village of the Michigameas, one of the Illinois tribes, the expedition was met with a show of strength, “ils estoient armes d’arcs, de flèches, de haches, de massuës, et de boucliers [They were armed with bows, arrows hatchets, clubs and shields].” We are told, and they moved their large wooden canoes, or pirogues, to surround the expedition.¹⁰⁶ It was impossible to know whether the intention was to primarily to intimidate, or whether an attack by the Michigameas was imminent. In any case, this was a moment of real tension and one that could easily have escalated, particularly after a war club came close to striking a member of the expedition and bows were being drawn on them. Marquette called on the quintessential diplomatic symbol of the *Pays d’en Haut*, the Calumet:

J’avois beau montrer Le calumet, et leur faire signe par des gestes que nous ne venions pas en guerre; L’alarme continuoît tousjour et l’on se preparoit deia a nous percer de flèches de toutes parts quand Dieu toucha soudainement le cœur des viellards qui estoient sur la bord de l’eau sans doute par la veüe de nostre Calumet qu’ils n’avoient pas bien reconnu de loing, mais comme je ne cessois de le faire paroistre, ils en furent touchez arresterent l’ardeur de leur Jeunesse [...]

[In vain I showed The calumet, and made signs that we were not coming to war against them. The alarm continued, and they were already preparing to pierce us with arrows from all sides, when God suddenly touched the hearts of the old men, who were standing at the water’s edge. This is no doubt through the sight of our Calumet, which they had not clearly distinguished from afar; but as I did not cease displaying it, they were influenced by it, and checked the ardor of their Young men.]¹⁰⁷

¹⁰⁵ For a detailed study of this, see Céline Carayon, *Eloquence Embodied: Nonverbal Communication among French and Indigenous Peoples in the Americas*, Williamsburg (Virg.), Omohundro Institute of Early American History and Culture, 2019, 456 pp.

¹⁰⁶ Reuben Gold Thwaites and Arthur Edward Jones, eds, *The Jesuit Relations and Allied Documents*, 73 vols, 1896–1901 (1610–1791), (JR), vol. 59, p. 151.

¹⁰⁷ JR, vol. 59, pp. 150–51.

It is not clear whether the signs employed by Marquette were improvised or if they were ones that would have been recognized elsewhere in the *Pays d'en Haut*, though the Calumet's role, here akin to the white flag in European tradition, was clearly central. Unlike the white flag, however, the Calumet held a deeper spiritual resonance and played a much wider role in the politics of the *Pays d'en Haut*. Communication through signs continued, as none of the six languages that Marquette spoke could be understood by the Michigameas until an old man was found who could give a partial translation. Even then, the major part of the communication appears to have been gestural and symbolic, with both sides clearly having a limited understanding of the other's attempts at communication:

Nous leurs fimes paroistre par nos presens que nous allions a la mer, ils entendirent bien ce que nous Leur voulions dire, mais je ne scay s'ils conçurent ceque je leurs dis de Dieu et des choses de leur salut [...]

[We informed them, by our presents, that we were going to sea. They understood very well what we wished to say to Them, but I know not whether they apprehended what I told them about God, and about matters pertaining to their salvation.]¹⁰⁸

Such nonverbal communications are typical of a moment of initial contact. If a relation is to be built verbal communication is required, and hence the need to learn the language.

Learning Miami-Illinois

In this, at least as far as the sources used for this research are concerned, the Jesuit missionaries were central. A typical example of their approach to understanding Indigenous languages is that of Sébastien Rasles, or Rale, who arrived in New France in 1689. He initially spent two years learning the foundations of the Abenaki language and

¹⁰⁸ JR, vol. 59, pp. 151–53; see also Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, p. 387.

begun to compile a French-to-Abenaki dictionary. In a letter to his brother, written in 1723, he described the method he employed:

Je leur disois grossièrement quelques articles du catéchisme, et eux me le rendoient dans toute la délicatesse de leur langue ; je les mettois aussitôt sur le papier, et par ce moyen je me fis assez peu de temps un dictionnaire, et un catéchisme qui contenoit les principes et les mystères de la religion.¹⁰⁹

[I would tell them, roughly, some articles of the catechism, and they would render this with all the subtlety of their tongue; I would commit this to paper immediately, and by this means I had, in a relatively short period, a dictionary and a catechism that contained the tenets and mysteries of the religion. (my translation)]

The effectiveness of this method in translating abstract points of theology may be questioned, but the principle would certainly have been sound for more concrete concepts. This highlights the importance of the Indigenous contribution to these types of dictionaries; what Rasles describes is not simply his translation and transcription of Abenaki phrases, but rather a collaborative effort in which his interlocutor's reinterpretation was as central. Unlike most written sources from this period, the authorship of such dictionaries has to be understood as being, in part, Indigenous.

With a base already established in Abenaki, Rasles was well suited for his next task, which was to join the Illinois mission as Kaskaskia. He spent two years there, assisting Father Jacques Gravier, before being recalled to work once more with the Abenakis in 1694. Of learning Algonquin languages, he wrote:

Cette langue est très difficile : car il ne suffit pas d'en étudier les termes et leur signification, et de se faire une provision de mots et de phrases. Il faut encore savoir le tour et l'arrangement que les sauvages leur donnent, ce que l'on ne peut guère attraper que par le commerce et la fréquentation de ces peuples.¹¹⁰

[This language is very difficult, for it is not enough to study terms and their meanings, and to build up a lexicon of words and phrases. One must also understand the use and order the savages give to these, which

¹⁰⁹ Rasles, Sébastien, "Lettre du P. Rasles à son frère, 12 octobre 1723," *art. cit.*, p. 677.

¹¹⁰ *Ibid.*, p. 675.

is something that one can only pick-up by frequent exchange with these peoples. (my translation)]

Herein lies the challenge faced by those 17th and 18th century Jesuits who were not only learning Indigenous languages, but also trying to understand their grammar. The familiar foundations of the Indo-European language family were utterly absent, as was a written tradition on which they could base their studies. They would fall back on their knowledge of Greek and Latin grammar, though these would prove inadequate at expressing the grammatical structures of Algonquian languages. Indeed, in writing to his brother, Rasles questioned whether books could be of any assistance in learning these languages, “On n’a point de livres pour apprendre ces langues ; et, quand on en auroit, ils seroient assez inutiles : l’usage est le seul maître qui puisse nous instruire [There are no books from which to one can learn these languages; and when there will be, they will be relatively useless: practice is the only master that can teach us (my translation)].”¹¹¹ Rasles was probably thinking of young Jesuits preparing for missionary activity for whom an Abenaki or Miami-Illinois grammar would have done little to help them prepare while in France or the City of Québec. This also highlights a particular aspect of the Miami-Illinois–and–French dictionaries under study here. While the dictionaries that were being produced in Europe at this time were tied to the long-established literary tradition discussed above, those produced in the *Pays des Illinois* were hybrid documents, connected to both European written and Aboriginal Oral Traditions.

¹¹¹ *Ibid.*, p. 677.

The Miami-Illinois–and–French dictionaries¹¹²

Turning now to the specific linguistic sources drawn on in this study, there are three extant 18th century Miami-Illinois–and–French dictionaries compiled by Jesuit missionaries and lay brothers, namely the Largillier, LeBoullenger, and Pinet manuscripts. As mentioned, these were compiled in close collaboration with Indigenous interlocutors. Somewhat contrary to Rasles’s above-mentioned views on the utility of books in learning Indigenous languages, the Miami-Illinois–and–French dictionaries main purpose was to be used in learning and improving the Jesuit’s linguistic skills. This was an aim they shared with contemporary dictionaries published in Europe, such as the *Dictionnaire Royal, François et Anglois* (1702), which stated in its preface:

Un Dictionnaire ne doit pas seulement être un Recueil de mots, mais il faut aussi qu’il serve à former le jugement des jeunes dans le véritable usage d’une Langue, & qu’il leur enseigne les différentes significations des termes [...]

[A Dictionary should not only be a collection of words, but should also serve to instruct young people in the correct use of the language and to teach the different meanings of terms (my translation)]¹¹³

This dictionary’s principle use would have been in conjunction with written sources, either to help a reader understand a text or for a writer in formulating their own. While the Miami-Illinois–and–French dictionaries were made with a similar didactic purpose, they were principally tools to help the user to understand something they had heard as well as to guide their speech. These were also documents that underwent a series changes as they were corrected and added to as understanding of the language improved. They were tools to help Jesuits learn the language of those they wished to minister to, yet they were only

¹¹² Part of this section has been adapted from a previously published article: Andrew John Fletcher, “The Miami-Illinois Digital Archive: Exploring how Linguistic Scholarship can Enlarge our Understanding of the History of Indigenous Societies,” *Cahiers d’histoire*, vol. 37, n° 1, 2019, pp. 43–64.

¹¹³ Boyer, ed., *Dictionnaire Royal, François et Anglois*, vol. 1, 1772, Preface.

part of this process. The task of learning the language, of error and correction, took place in the everyday exchanges between them and their Illinois interlocutors. As a whole, the Jesuits refrained from adopting local dress as had been the case in India and China (the lay brother Jacques Largillier was an exception to this as he dressed in the clothing of a backwoodsman or *coureur de bois*).¹¹⁴ Nevertheless, the requirements of their mission caused them to leave the French settlements and integrate into the village life of the Illinois, even if they maintained a certain separation marked visually by their cassock, or soutane, and rituals. Their celibacy would also have marked them out for the Illinois. The combination of a deviation from the sexual norms and clothing that defied the normal male dress of both the French and Illinois would have marked the Jesuits out as being individuals with a particular spiritual connection, similar in some ways to the *Two-Spirited* in Illinois society, who would be referred to as Two-Spirited in the modern context. Despite this, they would need to communicate in Miami-Illinois not only to spread their faith but also for the bare necessities of everyday living. The breadth of the entries illustrates this, ranging from abstract concepts of theology to mundane activities such as defecation. These were not documents destined for publication in Europe, and so the Jesuits did not censor or omit things that would offend the sensibilities of a Catholic audience, though they did tend to use Latin for entries they considered to be of a more vulgar nature. This is one of the strengths of these sources for historical research, as they lack much of the censorship or exaggeration inherent in most colonial sources. This is not to say there are

¹¹⁴ The term “coureurs de bois” indicates those colonists who travelled to Aboriginal communities to participate in the fur trade. Strictly speaking, the term referred to unlicensed traders defying the French authorities, though it came to be applied more widely to all such traders, see Gilles Havard, *Histoire des coureurs de bois : Amérique du Nord, 1600–1840*, Paris, Les Indes savantes, 2016, pp. 10–11; on the Society of Jesus in Asia, see Diarmaid MacCulloch, *Christianity: The First Three Thousand Years*, *op. cit.*, pp. 705–09.

not omissions and biases within these sources; the authors retained their ethnocentric and religious prejudices and there would have been limits to what their interlocutors were willing or able to share with them.

The manuscripts

It is in a large part on the linguistic work undertaken by the Jesuits that this research rests, and in which it finds its originality. As will be shown below, it is this abundant source material that has made this historical study possible, for the French colonial records on their own offer a limited view of the Illinois legal culture. These sources have been made accessible through the language revitalization efforts of the Myaamia Center, and most notably the Indigenous Languages Digital Archive (ILDA). The largest manuscript was compiled in the 1690s, and was originally attributed to Father Jacques Gravier who worked on Miami-Illinois grammar.¹¹⁵ However, the scribe has been recently identified as Jacques Largillier, a Jesuit lay brother, though the dictionary should nevertheless be considered as a collective work and can fairly be referred to as the Largillier-Gravier Dictionary, though the term “Largillier manuscript” is generally used in this study given it is mainly in his hand.¹¹⁶

It is worth pausing to consider the life of the man who wrote the largest part of this dictionary, as this provides a context for the compilation of this manuscript. Jacques Largillier was born in France and arrived in Canada in his twenties. He became a successful fur trader, which earned him the nickname “Le Castor.” He was part of Louis

¹¹⁵ JR, vol. 66, pp. 244–247.

¹¹⁶ Michael McCafferty, “Jacques Largillier: French Trader, Jesuit Brother, and Jesuit Scribe Par Excellence,” *Journal of the Illinois State Historical Society*, vol. 104, n° 3, 2011, pp. 188–198.

Jolliet's 1673 Mississippi expedition and accompanied Father Marquette to the *Pays des Illinois* in 1674.¹¹⁷ Drawn to the religious life, he took solemn promises in 1676 and became a lay brother, or *donné*, with the Society of Jesus. As mentioned, he did not adopt the Jesuit's soutane in order to allow him to work and travel with greater ease, providing services such as hunting for the Jesuit missionaries. Michael McCafferty, a scholar of the Miami-Illinois language, who identified Largillier as the scribe of the earliest and longest Miami-Illinois-and-French dictionaries, wrote of him, "for nearly forty years Largillier lived among Miami-Illinois-speaking peoples as well as with the very Jesuits who were not only studying and recording the Miami-Illinois language with fervor but also using it on an everyday basis in their missionary work."¹¹⁸ His writing can also be found in the Pinet manuscript, and Largillier's contribution to the preservation of linguistic and historical information on the Miami-Illinois language and speakers is invaluable. Despite this, none of his own writings (apart from a number of signatures on notarial documents) have survived.¹¹⁹ The second manuscript, chronologically, was compiled by Pierre-François Pinet around 1702, though only discovered in 1999 in the *Archives de la Compagnie de Jésus* at Saint-Jérôme, Québec.¹²⁰ The final dictionary is that of Antoine Robert LeBoullenger, dating to the 1720s. It has been noted that "these manuscripts contain tens of thousands of words, collected at a time when the language was in daily use by large, monolingual communities still living in a traditional manner."¹²¹ These were

¹¹⁷ Raymond Douville, "Largillier, Jacques, Le Castor," *Dictionary of Canadian Biography*, vol. 2, 1982, <http://www.biographi.ca/en/bio/largillier_jacques_2E.html>.

¹¹⁸ Michael McCafferty, "Jacques Largillier: French Trader, Jesuit Brother, and Jesuit Scribe Par Excellence," *art. cit.*, p. 191.

¹¹⁹ *Ibid.*

¹²⁰ David J. Costa, "The St-Jérôme Dictionary of Miami-Illinois," in H. C. Wolfart, ed., *Papers of the Thirty-Sixth Algonquian Conference*, Winnipeg, University of Manitoba Press, 2005, pp. 107–33.

¹²¹ Daryl Baldwin, David J. Costa and Douglas Troy, "Myaamiaataweenki eekincikoonihkiinki eeyoonki aapisaataweenki: A Miami Language Digital Tool for Language Reclamation," *art. cit.*, p. 396.

collaborative efforts between the Jesuits and their Indigenous interlocutors, as well as between each other. Despite being named after their principle scribe, the dictionaries often show additions or corrections in other hands.¹²²

For over a century, the *Relations* written by the Jesuits have been consulted by historians for their ethnographical and historical content, and form one of the more accessible sources on Illinois history in the late 17th and 18th centuries. The Miami-Illinois dictionaries, however, have until recently been underused by historians. The reason for this is twofold: the foremost obstacle is the nature of the entries, the purpose of which was linguistic rather than ethnographic. Take, for example, the first page of the Largillier manuscript, from which the first five complete lines have been reproduced below (here each Miami-Illinois term has been put on a separate line):

⟨Nit8ca8a⟩ “je l’attends je l’attens [I am waiting on him/her].”

⟨8ahingo t8c8rani cata?⟩ “t attendray je icy? [Shall I wait for you here?]”

⟨Nit8ca8t8⟩ “je ne serre pas fort, je debande, lasche [I do not squeeze tightly, I go soft, slack].”

⟨t8ca8te8i⟩ “peu serré. pas asses serré q̄d on craint qu il ne se delie tout [a fait little tightened. not tightened enough. when one fears that it will undo completely].”

⟨Nit8capikinan⟩ “j attache foiblement, je lasche [I connect weakly, I release, let go, relax].”

⟨Sacant8tagane⟩ “8g la bride a un cheval [e.g. the bridle of a horse].”¹²³

⟨t8capinti8a⟩ “l’arc est lasche, n’est pas bandé. [the bow is slack, is not strung].”

¹²² See, for example, (i) the entry for ⟨ni8itchipip8n8entimina⟩, given as “nous somme de mesme âge que luy [we are the same age as he is],” which is probably in Gravier’s hand, PN, 13:6; (ii) the entry for ⟨arac8a cam8igane⟩, “maison faite pour y estre [house that is made for being there (my translation)];” and (iii) ⟨nagatsi r8kice8 rakikie⟩, “qu’il n’abuse pas de toi. puellae diŕ. [May he not take advantage of you!],” in which additions appear to be in Largillier’s hand, PN, 16:11 and 26.

¹²³ In the Largillier manuscript “8g” is used as an abbreviation of *exempli gratia*.

«Nit8capinti» “je ne bande pas roide la corde [I do not draw the string of it taut].”¹²⁴

An image of the the first entry, and how this is displayed in the ILDA, is shown in Figure 1.6. Using this type of information to understand the history of the Illinois is not an easy task. The individual entries are, for the most part, individual words or short phrases, though there are sometimes longer sentences containing more information. It is true that certain entries can dramatically evoke contemporary Indigenous perspectives, such as the definition of «Papakissapi8a mamistig8chia», which is rendered as “le françois se repant, va partout [the French are spreading out, go everywhere].”¹²⁵ Others can be used to better understand specific aspects of Illinois society, such as historical marriage customs. For example, Raymond E. Hauser noted that the LeBoullenger manuscript contained phrases that indicated the patrilocal residence of married women was not an absolute rule, citing the terms «nahanganapi8o» and «nahananapi8» “il demeure chez les parens de sa femme [he lives at his wife’s parents’ home]” and «ninen8ca8a» “je demeure chez un qui n’est pas de mon V. le gendre Chez le beau pere [I am staying at the home of one who is not from my village. Son-in-law at the home of the father-in-law].”¹²⁶ Nevertheless most of the entries are short and translations of terms. Accessing, compiling, and interpreting the relevant entries to a certain area of historical research was, until recently, a difficult task.

¹²⁴ Jacques Largillier (LG), *Manuscript [Miami-Illinois-and-French Dictionary]*, (c. 1700), 1:5–9.

¹²⁵ LG, 431:12.

¹²⁶ Raymond E. Hauser, “An Ethnohistory of the Illinois Indian Tribe, 1673–1832,” Thesis, 1973, p. 230 (footnote); the terms can be found at LB, 312:65, 220:21, and 414:44 respectively. Hauser used copies of the manuscript as well as Natalie Maree Belting’s transcription of it.

Figure 1.6. First entry in the Largillier-Gravier Dictionary in the ILDA¹²⁷

ILDA Miami-Illinois
INDIGENOUS LANGUAGES DIGITAL ARCHIVE

Home About Documents Contact Log In

Largillier / Page 1 / Line 5 / Phrase 1 written

Original Target: Nit8ca8a
English Translation: N/A
Original Gloss: je l'attends je l'attens.
Modern Speech: N/A

Keyword Keyword Translation

Original Target Language

Original Gloss

Original Gloss Comments

English Translation of Gloss

Modern Speech Form

Cognates

Semantics, Syntax, Speaker and Dialect

This leads to the second obstacle: the dictionaries are lengthy and densely filled. The Largillier manuscript runs to 584 pages with about 40 lines per page, that of the Pinet manuscript 672 pages with about 35 lines per page, and that of LeBoullenger 185 pages with about 75 lines per page. The task of reviewing the dictionaries for their historical content is significant. This is particularly the case of the Largillier manuscript, as the

¹²⁷ “Miami-Illinois Indigenous Languages Digital Archive”, accessed 11 October 2021, <<https://mc.miamioh.edu/ilda-myaamia/phrases/17128>> (© Miami Tribe of Oklahoma, used with permission).

alphabetical order follows that of Miami-Illinois, making the search for particular words in French onerous. The LeBoullenger and Pinet manuscripts used keyword headings, which makes them easier to search in their manuscript form. It should be noted that the very elements that make the Largillier, Pinet and LeBoullenger manuscripts unwieldy for historians – being densely filled with many, often repetitive, short entries – are precisely the elements that make them incredibly valuable linguistic sources.

It is not surprising, then, that these sources have been primarily studied by scholars of Algonquian linguistics. Modern research into the dictionaries began in the 1980s, particularly when the David J. Costa began researching the Miami-Illinois language for a doctoral thesis in linguistics.¹²⁸ At this time the language had ceased to be spoken, as mentioned above. The language itself was little known to scholars, and yet Costa found an incredible wealth of primary sources dealing with it:

Miami-Illinois may be unique among native North American languages for not having been natively spoken for at least half a century, yet still having extremely extensive written documentation spanning almost 250 years, most of which exists as unpublished manuscripts in archives and libraries. Purely in terms of written records, Miami-Illinois is one of the best-documented Algonquian languages, far more extensively recorded than many other Native American languages which still have speakers.¹²⁹

This valuable documentation enabled the establishment of the Illinois Project in 1999 (later called the Ilaatawaakani Project) for language revitalization. Two years later, the Myaamia Project was established in conjunction between the Miami Tribe of Oklahoma and the University of Miami in Ohio. This is “a teaching and research unit within the University with emphasis on language research and cultural education.”¹³⁰ Through this

¹²⁸ Daryl Baldwin, David J. Costa and Douglas Troy, “Myaamiaataweenki eekincikoonihkiinki eeyoonki aapisaataweenki: A Miami Language Digital Tool for Language Reclamation,” *art. cit.*, p. 394.

¹²⁹ *Ibid.*, p. 396.

¹³⁰ *Ibid.*

the Miami-Illinois Digital Archive (2015) was developed, which became the Indigenous Languages Digital Archive in 2017. This project has also produced a Myaamia-Peewaalia-and-English dictionary and other language learning tools.¹³¹

It should be noted that historians have, over the last two decades, begun to use the Miami-Illinois-and-French dictionaries more frequently, in conjunction with the growing knowledge of the language. The transcription and self-publication of the Largillier manuscript in 2002 by Carl Mathsay under the title *Kaskaskia Illinois-to-French Dictionary* made the source more accessible, particularly as it included a French-to-Kaskaskia index.¹³² This was, however, surpassed relatively quickly. In the ILDA, one finds a much more powerful tool, the fruit of a collaborative and multidisciplinary scholarly work. The digital archive enables scholars to access the manuscript Miami-Illinois-and-French dictionaries in an unprecedented fashion, and it stands as an example for other Indigenous languages archival projects in North America.

Dictionaries and colonization

When using these linguistic sources, it is important to understand their role in the wider phenomenon of colonization, of which the efforts of missionaries constituted an important part. The establishment of Christianity in New France being an important element in the French Crown's policy towards their overseas territories. It follows from this that the Miami-Illinois-and-French dictionaries were instruments of colonization. This said, it would be an error to consider this as being their only, or indeed primary,

¹³¹ The Myaamia-Peewaalia-and-English dictionary (hereafter 'MP') is managed by the ILDA and can be consulted online, see <<https://mc.miamioh.edu/ilda-myaamia/dictionary>>.

¹³² Mathsay, Carl, ed., *Kaskaskia Illinois-to-French Dictionary*, Saint Louis, Author, 2002, 757 pp.

function. That the Roman Catholic Church's, and specifically in this case the Society of Jesus's, goals intersected with that of the French colonial project does not mean that the missionaries can be seen as mere functionaries of the French imperial system. Conflicts between military officers and the Jesuits periodically arose in the *Pays des Illinois* such as that between the Jesuits and the officer Terrisse du Ternan, who they tried to have recalled from the *Pays des Illinois* in the late 1720s.¹³³ There were also tensions with Jean-Jacques de Macarty Mactigue, commandant of the Fort de Chartres from 1751 to 1760, connected to politics and the commandant's refusal to halt the trade of alcohol that was creating social problems amongst the Illinois.¹³⁴

Such tensions, the product of ideology, personality, and politics do not indicate that the Jesuits were opposed to colonization, but rather that their engagement with it was directed by their own set of goals. One can see this in the description of the aims of the missionaries set out by the seminary priest Jean-François Buisson de Saint-Cosme, who founded the Sainte-Famille mission to the Tamoras, in 1699 (note here that *jongleur*, meaning juggler, was the term used by the French to describe the spiritual leaders and healers, or Medecine Men and Women, of Aboriginal societies):

[...] si Lont peut jûger dela suite par Le peût de temp que Le Rd. Père Pinet est dans cette Mission on peut croire que Dieu benissant Les travaux et le Zelle de ce St Missionnaire il y aura la un grand nombres de bons et fervens chrestiens il est vray qu'on y fait peut de fruit en vers Les personnes âgée et endurcy dans le libertinage mais on baptize tous Les Enfans et Les jongleurs mesme Les plus ôposée aû christianisme Laisse Baptisée Leurs Enfans ils sonts mesme bien aise qu'on Les instruisse plusieurs plusieurs filles desia âgée et plusieurs Jeunes garçons se font desia se font [*sic*] aussy instruire de sorte que

¹³³ David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, pp. 92–94.

¹³⁴ *Ibid.*, pp. 140–141.

Lont peut Espérer que vielles Souches estant mortes ce sera un nouveau peuple tout chrestien.¹³⁵

[If one may judge of the future from the short time that Reverend Father Pinet has passed in this mission, we may believe that if God will bless the labors and zeal of that holy missionary there will be a great number of good and feverent Christians. It is true that but slight results are obtained with reference to the older persons, who are hardened in profligacy, but all the children are baptized, and the jugglers even, who are most opposed to Christianity, allow their children to be baptized. They are also very glad to let them be instructed. Several girls of a certain age and also many young boys have already been instructed, so that we may hope that when the old stock dies off, they will be a new and entirely Christian people.]¹³⁶on

Such evangelization, while facilitated by colonization, was not primarily a colonial mission, but one aimed at saving souls – as the Jesuits understood it – facilitated by the French Crown’s imperial ambitions.¹³⁷ This was something they undertook in the knowledge that it would be fraught with hardship and danger; as a leading scholar on the history of Christianity has written, “The prolonged suffering and ghastly deaths of Jesuit missionaries at the hands of hostile First Nations on the borders of the French colonies in Canada in the early seventeenth century rank high in the history of Christian suffering.”¹³⁸ Unlike those Frenchmen trying to gain their fortunes in the *Pays d’en Haut*, the reward for the suffering of the Jesuits would be spiritual not material. Basing themselves on gospel passages such as “and he ordained twelve, that they should be with him, and that he might send them forth to preach,” and “the Gospel must first be published among all nations,” as well as the example of St Paul, the self-professed apostle to the gentiles, missionaries had spread the Christian message far beyond the borders of what had been the Roman Empire by the 7th century, reaching China, Ethiopia, Germany and Ireland, in

¹³⁵ Jean-François Buisson de Saint-Cosme, “3^e lettre : Copie d’une lettre datée de la Rivière Arkansas, le 2 janvier 1699,” *art. cit.*, p. 54.

¹³⁶ Jean-François Buisson de Saint-Cosme, “The Voyage of St. Cosme, 1698–1699,” *art. cit.*, p. 347.

¹³⁷ This is not to say that colonisation and evangelization are not intimately linked in the history of North America, but rather to underline that are not necessarily codependent.

¹³⁸ Diarmaid MacCulloch, *Christianity: The First Three Thousand Years*, *op. cit.*, p. 714.a

each area adapting to local languages and customs.¹³⁹ Notwithstanding this, the expansion of the faith through force became a mark of the Western Church in the medieval period, particularly in the period of the crusades.¹⁴⁰ As Robert A. Williams has underlined, the subsequent European expansion into the Americas was built on a medieval discourse of the Crusade:

Centuries prior to Columbus's transatlantic voyage, the thirteenth-century canon lawyer-pope Innocent IV had discovered for Christendom a new world of legal discourse, premised on the central orienting myth that the European's vision of reason and truth entailed norms obligatory for all peoples. All contrary visions were denied respect. Knowledge and power had been placed in service of each other, so that the medieval crusading idea might not only be legitimized but, more important, be preserved in a form more palatable for Renaissance Europe's will to empire directed at the New World.¹⁴¹

This discourse had, indeed, been transformed by the Reformation and Counter-Reformation. While evangelization has always been an important part of the Christian faith, the Society of Jesus, founded in 1534, developed at the beginning of a new era for the Western Christianity.¹⁴² Due to the conjuncture of a set of geographical and historical circumstances, Reformation Europe was poised economically and militarily to expand at the same time that its Church dramatically split. The bloody religious wars on European soil were transposed into the Americas and beyond. Even after the fever broke in Europe these rivalries continued to be played out in colonization, and it is important to understand the Jesuit missions in the *Pays des Illinois* in this light.¹⁴³

¹³⁹ Mark 3:14 and 13:10, the King James Version (1611) is referred to here as it is contemporaneous with the period under study; *ibid.*, chaps. 7 and 10.

¹⁴⁰ *Ibid.*, pp. 381–388.

¹⁴¹ Robert A. Williams Jr, *The American Indian in Western Legal Thought: The Discourses of Conquest*, *op. cit.*, pp. 49–50.

¹⁴² Carole Blackburn, *Harvest of Souls: The Jesuit Missions and Colonialism in North America, 1632–1650*, *op. cit.*, p. 22.

¹⁴³ See, for example, the fate of France's colony in Florida, La Caroline, in which the Spanish Governor-General Pedro Menéndez de Avilés "summarily executed nearly every French Protestant he found" in 1565 Daniel K. Richter, *Before the Revolution: America's Ancient Pasts*, *op. cit.*, p. 97.

The relation of the Miami-Illinois–and–French dictionaries to colonization must be seen as being of a dual nature. On one side, these were tools of evangelization designed to enable the Jesuits to teach the Illinois the Christian faith as well as to develop the necessary liturgical language in Miami-Illinois. While the study of the Bible was not seen as necessary for the laity by the Catholic Church, it is interesting to note that the LeBoullenger manuscript includes a partial translation of Genesis (1:1–35:29).¹⁴⁴ If, as Fannie Dionne has highlighted, the principles of ecclesiastical hierarchy and authority were key to the Jesuit’s vision of their role in propagating the faith, such a translation must have been undertaken with a particular purpose in mind.¹⁴⁵ Given that this is the only extant Biblical translations in Miami-Illinois, one can assume that it had a specific didactic role, possibly in countering the arguments of the Medecine Men and Women that Saint-Cosme described as being “most opposed to Christianity.”¹⁴⁶ While this remains a speculation, it is interesting to note that this translation is followed by two entries, side by side, giving terms relating to “Jonglerie,” that is the Illinois’s sacred beliefs, and the Passion of Christ.¹⁴⁷ Here one can read a comparison of terms connected to suffering. In one column there are terms connected to the power of Medecine Men and Women to inflict pain or death, such as <Jakipiðina>, which is translated as “on souffle sur une persone pour le faire mourir [one breathes upon a person to make him die].”¹⁴⁸ This was part of their power, and it was also within their abilities to heal.¹⁴⁹ In the other are phrases

¹⁴⁴ LB, 40–52.

¹⁴⁵ Fannie Dionne, “Encre la parole : Écrit et oralité dans les dictionnaires jésuites en français et wendat (XVII^e–XVIII^e siècles),” *op. cit.*, pp. 153–154.

¹⁴⁶ Jean-François Buisson de Saint-Cosme, “The Voyage of St. Cosme, 1698–1699,” *art. cit.*, p. 347.

¹⁴⁷ LB, 56.

¹⁴⁸ LB, 56:6.

¹⁴⁹ Pierre-Charles De Liette, “Mémorial de De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 363.

that the Jesuits have recorded to help them tell the story of the Passion, such as <papic8ng8eh8nta> given as “battue au visage a coups de poing [beaten on the face with a fist].”¹⁵⁰

This juxtaposition cannot be accidental, and indicates the fundamental purpose of these dictionaries as tools in the evangelization of the Illinois. In this light, the dictionary’s role in colonization is that of knowledge, in William’s dichotomy, in which their evangelization acted to establish a common ideological framework that permitted the French and Illinois to deepen their alliance, such as when the Kaskaskian Chief Kiaoueria declared “Je suis de la priere” to strengthen an argument he was making to the commandant of Fort de Chartres, Pierre-Sidrac Dugué de Boisbriand, in 1723 (see Chapter 4).¹⁵¹ On the other side of this dichotomy is power, which lay in the hands of both the Jesuits and French officers. To become a Christian was to accept the spiritual leadership of the Jesuits, or other priests, and to enter into a relation with a new and alien culture. As David MacDonald has underlined, the Jesuit approach was more respectful of Illinois culture and language than others:

The Jesuits sought to enter into the culture of the Indians and there to establish Christianity within the Indians’ own society and customs. This was particularly reflected in the Jesuit emphasis on learning and using the Indians’ own language. In contrast, the Seminary of Foreign Missions priests, who established themselves at Cahokia in 1698, disparaged Indian culture and followed the government-approved policy to franciser, or “Frenchify,” the Indians, to deracinate them and convert them into French men and women in language, culture, and religion. This too was reflected in language. The seminary priests persistently neglected to become proficient in the Illinois language and as a result were persistently ineffective in communicating with most of the people they hoped to convert. They were still relying on translators at the end of the French regime.¹⁵²

¹⁵⁰ LB, 56:39.

¹⁵¹ “Les Chefs du Village des Kaskakias”, 3 May 1723, ANOM, COL C_{13A}, vol. 7, f. 319v.

¹⁵² David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, p. 129.

Nevertheless, this was a relationship of authority that remained unbalanced throughout the colonial period. There was also the imbalance of economic and military power that stood behind the Jesuits, in the form of the French empire, and to which their loyalties ultimately lay.

Indigenous–French dictionaries and research

As has been shown, knowledge of, and interest in, dictionaries of the Indigenous languages of North America is not new. They have long been valuable tools in the study of these languages, as well as curios prized by collectors.¹⁵³ Over the last forty years, they have become increasingly important in various language revitalization efforts. However, as historical, rather than linguistic, sources they have generally been marginal to academic research. This is no doubt connected to the difficulties in using these sources mentioned above. Recently, however, there has been a growth of interest in these sources among historians. This is no doubt driven in part by a desire to highlight Aboriginal experiences and voices in the historical record, as well as to move beyond the confines of the oft considered archival and printed sources that all scholars of the history of colonial and Indigenous North America must use. This has led to a more systematic analysis of these linguistic sources and their entries over the last two decades. What follows is a brief overview of the approaches to research into Indigenous language dictionaries with that historians can take when studying these sources.¹⁵⁴ It should be noted that these are primarily dictionaries compiled by members of the Society of Jesus, as the Jesuits

¹⁵³ On this, in relation to Wendat–and–French dictionaries, see Fannie Dionne, “Encre la parole : Écrit et oralité dans les dictionnaires jésuites en français et wendat (XVII^e–XVIII^e siècles),” *op. cit.*

¹⁵⁴ For a recent review of the research on this subject, see Fannie Dionne, “Nouveaux mots, nouveaux mondes : L’histoire de la Nouvelle-France à partir des documents en langue autochtone,” *Études canadiennes/Canadian studies*, vol. 82, 2017, pp. 67–85.

produced the most complete dictionaries in New France, and indeed for the colonial period. This is partly due to their rigorous training in Europe and to the importance they placed in communicating the principles of their faith in the languages of those they were trying to convert, rather than beginning by trying to instruct these potential converts in French. They also developed a tradition of compiling dictionaries throughout the territory of New France.

It is possible to identify three main methodological approaches to these linguistic sources. These are not mutually exclusive, and the scholars working with these sources have adopted a mixture of different methods, though the topic of research usually dictates a predominance of one method. These can be termed the archival, documentary, and linguistic approaches. The archival approach concentrates on the dictionaries themselves, particularly their creation and format, as well as their sometimes circuitous routes into modern archives. Questions of authorship, for example, require specialization in paleography and detailed archival research. Amongst others, the linguist Michael McCafferty has produced crucial work on the authorship of the Largillier manuscript, not to mention having found and identified the Pinet manuscript.¹⁵⁵ Another scholar who has undertaken a detailed study of Jesuit authored dictionaries is Fannie Dionne, whose thesis “Encre la parole : écrit et oralité dans les dictionnaires Jésuites en Français et Wendat (XVII^e–XVIII^e siècles)” (2020) explores Wendat–and–French dictionaries.¹⁵⁶ This provides a detailed history of the development of such dictionaries in New France, as well as an

¹⁵⁵ See, for example, Michael McCafferty, “Jacques Largillier: French Trader, Jesuit Brother, and Jesuit Scribe Par Excellence,” *art. cit.*; Michael McCafferty, “The Latest Miami-Illinois Dictionary and its Author,” *Papers of the 36th Algonquian Conference*, 2005, pp. 271–286.

¹⁵⁶ Fannie Dionne, “Encre la parole : Écrit et oralité dans les dictionnaires jésuites en français et wendat (XVII^e–XVIII^e siècles),” *op. cit.* At the time of writing, this is under preparation for printing with the Presses de l’Université Laval.

analysis of the format, structure and content of Wendat–and–French dictionaries. To this can be added here recent publication, “Pierre Potier, l’écriture et le pouvoir à la frontière linguistique de la Nouvelle-France” (2021), in which she continues to develop her research.¹⁵⁷

What can be termed the documentary approach concentrates on the French (and Latin) gloss of these dictionaries and links relevant entries to other historical (or archaeological) sources. Such an approach is an extension of standard historical practice into a particular type of source. While the entries in such dictionaries do not lend themselves well to analysis on their own, for the reasons mentioned above, they can provide important nuances to the broader corpus of sources available to historians. This can be particularly valuable as those sources relative to Aboriginal societies’ available for New France can be quite limited in many areas (an overview of the corpus of colonial sources used in this study is given below). As has been mentioned above, Raymond E. Hauser applied this method to his ethnohistory of the Illinois with regular references to the LeBoullenger manuscript. More recently, Brett Rushforth’s *Bonds of Alliance: Indigenous and Atlantic Slavery in New France* (2012) used linguistic sources when discussing slavery amongst the Illinois in the 17th and 18th centuries.¹⁵⁸ While this remains a very interesting approach which has inspired some of the methods adopted in this research, there are also some problems surrounding the use of the word esclave [slave] by

¹⁵⁷ Fannie Dionne, “Pierre Potier, l’écriture et le pouvoir à la frontière linguistique de la Nouvelle-France,” *Revue d’histoire de l’Amérique française*, vol. 75, n° 1–2, 2021, pp. 19–40.

¹⁵⁸ Morrissey also includes a list of “Bison-Hunting Vocabulary in Contact-Era Illinois language” in Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, p. 22.

the French as it was used both for those held in servitude and for war captives who could be adopted into an Indigenous family.¹⁵⁹ As he has noted:

The least familiar but most illuminating material was drawn from four unpublished dictionaries and phrase books created by Jesuit missionaries in the seventeenth and early eighteenth centuries. Totalling nearly two thousand manuscript pages, these guides minutely detail several dialects within the Algonquian language family, particularly within Miami-Illinois and Anishinaabemowin (Ojibwa and Ottawa). The dictionaries vary in their quality, legibility, and comprehensiveness, but each of them exhibits a deep familiarity with the Algonquian dialect in question.¹⁶⁰

The strength of his analysis lies not only in the use of a broad range of linguistic sources but also in systematic analysis to references to slavery in these dictionaries. In the appendices, he presented a table of “Algonquian words and phrases relating to slavery/captivity” from the Largillier-Gravier Dictionary.¹⁶¹ This approach allows for much deeper analysis than simply identifying entries relevant to a given subject as it allows for the identification of patterns and repetitions, particularly when applied across a number of linguistic sources. The compiling of such tables allowing for the comparing of entries, inspired by Rushforth’s approach, has been applied regularly in this study. Whether what the French termed as slavery corresponded to an equivalent Illinois concept is, however, another question.

In a different approach, John E. Bishop, in his study of entries concerning birds in Nêhirawêwin–and–French dictionaries, compiled statistical information over four Jesuit-authored dictionaries.¹⁶² As concerns the research into the Illinois, such an approach has

¹⁵⁹ Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slaveries in New France*, Chapel Hill (N.C.), University of North Carolina Press, 2012, pp. 15–71.

¹⁶⁰ *Ibid.*, p. 383.

¹⁶¹ *Ibid.*, pp. 387–391.

¹⁶² John Bishop, “Qu’y a-t-il de si drôle dans la chasse au canard ? Ce que les ouvrages linguistiques nous disent de la rencontre entre les Jésuites et les Nehiraw-Iriniw,” *Tangence*, n° 92, 2010, pp. 39–66. The term Nêhirawêwin “refers to the various dialects spoken by the Nêhiraw Iriniw (‘Nêhiraw people’), both translated by the 17th- and 18th-century French as ‘Montagnais’. Descendants of these people living in

been greatly facilitated by the database made accessible by the ILDA. This contains, at the time of writing, over 70 000 entries, of which some 65 461 come from the Miami-Illinois–and–French dictionaries.¹⁶³ These can be searched using the Miami-Illinois words and phrases recorded by the Jesuits, the original French or Latin gloss, the English translation, as well as a number of more technical criteria. It should be noted, though, that not all topics yield the same results with this approach. Generally, this type of analysis is less effective the more abstract a concept is, due to the broader range of uses that these terms have.

The third approach can be termed linguistic as it elicits relevant information from the Indigenous terms recorded in the dictionaries. A very interesting application of this in the legal field is Naomi Metallic’s “Five Linguistic Models for Revitalizing Indigenous Laws” (2022).¹⁶⁴ This explores five approaches to linguistic sources that can be employed in engaging with Indigenous legal principles: working with meta-principles, grammar, morphemes, word clusters, and toponymy. With the exception of a toponymic approach, these have all been applied in some measure in this study. Another example of the linguistic approach is John E. Bishop and Kevin Brousseau’s work on the Nêhirawêwin–and–French dictionaries.¹⁶⁵ This research lies on the border between the disciplines of history and linguistics. As such, it requires a level of specialization in the Indigenous language concerned, which is why almost all of this type of research has been undertaken

Quebec today identify themselves as Cree, Innu, Naskapi, or Atikamekw,” John E. Bishop and Kevin Brousseau, “The end of the Jesuit lexicographic tradition in Nêhirawêwin,” *Historiographia Linguistica*, vol. 38, n° 3, 2011, p. 293, note 1.

¹⁶³ At the time of writing, it was hosted at <<https://mc.miamioh.edu/ilda-myaamia/>>.

¹⁶⁴ Naomi Metallic. “Five Linguistic Methods for Revitalizing Indigenous Laws,” currently under review for publication in the *McGill Law Journal*, 2022.

¹⁶⁵ John E. Bishop and Kevin Brousseau, “The end of the Jesuit lexicographic tradition in Nêhirawêwin,” *Historiographia Linguistica*, art. cit., pp. 293–324.

by linguists. As concerns Miami-Illinois–and–French dictionaries, David J. Costa’s *The Miami-Illinois Language* (2003) is the key example, though he drew more linguistic sources than just the dictionaries for this.¹⁶⁶ The etymology of words can also be revealing of their conceptual roots, and is important in the history of ideas. For scholars, such as the author, who lack such specialized knowledge of the Indigenous language in the dictionaries they are studying from a historical perspective it is necessary to take care when approaching these sources. The reliance on the work of linguists, such as that compiled in the ILDA, is therefore invaluable for this – as is a knowledge of the basic structure of the language under study. In conjunction to a focus on the construction of words, one can also consider the conceptual framework that lies behind these terms. By comparing and cross-referencing key entries one can establish a map of the different meanings of terms, at least as far as they were recorded by the Jesuits. This permits the establishment of the family of concepts that are associated with words and, in conjunction with other historical sources, can provide a deeper understanding of the legal culture that underpinned Indigenous societies in the colonial period. Such an approach is adopted in this work and will be applied in the following chapters.

With the basic principles underpinning this study established, it is now possible to turn the page and begin to mark down the answers to the three questions set at the outset of this chapter, to wit (i) the extent that knowledge of Illinois jurisprudences can be drawn from the extant sources, (ii) the contribution that can be made to our understanding by a study of the Miami-Illinois–and–French dictionaries, and (iii) the limitation that are inherent in these sources. Before embarking on the legal side of the concept of Illinois

¹⁶⁶ David J. Costa, *The Miami-Illinois language*, *op. cit.*

legal culture it is first necessary to provide an overview of that culture, at least as it can be seen through the historical sources set out above.

CHAPTER 2

THE ILLINOIS IN THE LATE 17TH CENTURY

«Ni8ntatchim8iro»
commence par la a raconter
[begin by telling me that (i.e. a story)]

Largillier-Gravier Dictionary¹

As stated above, this is a study looking at epistemology, language, and legal culture. These three aspects will be interwoven throughout the subsequent chapters – though that of law is the central thread, in relation to which the other two will be considered. Laws are, of course, social constructs, insofar as those of any given society at any moment in time are a product of the dynamics of the said society.² It follows from this that one needs to understand a society’s structure in order to understand its legal culture. The purpose of this chapter is, therefore, to provide an overview of Illinois society as it was in the 17th and 18th centuries, at least as far as the historical records permit. To begin with, it is necessary to present the Miami-Illinois language and its speakers in the 1600s, as well as a history of the major upheavals that occurred at this time. In this chapter, the Miami-Illinois–and–French dictionaries will primarily be used in providing translations of isolated terms from Miami-Illinois into French. This permits a linguistic connection to the 18th century, though it is important to note that the vast majority of sources on which this chapter is based are colonial.

¹ LG, 352:14.

² To properly understand the laws of Illinois in the 18th century would require a deeper understanding of their society than falls within the power of the current work, it is important to highlight that the Illinois had laws, even if this study only attempts to trace the outlines of their legal culture.

Before embarking upon this, it is important to address some of the pitfalls faced by historians writing about societies that are not their own, which is often the case of those who look at the history of what the French termed the *Pays d'en Haut*, that is the Upper Country, the vast territory around the Great Lakes that lay upstream of the main French colonies in the Saint Lawrence Valley (see Map 1.1). There is, of course, the initial problem of understanding the culture of *Ancien Régime* France and its colonies. Many aspects of this society are familiar. However, care must be taken not to impose contemporary ideas onto the past, as a certain familiarity with a culture can easily lead to error. While the object of research is the legal culture of the Illinois, space is also set aside to explain relevant aspects of Early Modern French society and legal culture, as well as some of the principal actors in the French colonies.

As different as 18th-century French culture may be from one's own culture, there are a wealth of journals, novels, plays, philosophical treatises, operas, not to mention histories, that tell us who the French thought they were at this time (particularly the wealthier men). While it is harder to understand the history of poorer and marginalized members of French society, there nevertheless remains a wealth of primary source materials such as court records, notarial records, or wills, that allows contemporary historians to draw a portrait of this. The Kaskaskia Manuscripts are a very good example of this, as they have permitted scholars to explore the lives of the inhabitants of the French colony in Illinois, many of whom were unlettered and who otherwise would have left little trace.³ These problems pale in comparison to the problems trying to understand

³ For example, Sophie White employs these to explore the interactions of Illinois women with French legal culture and society in the *Pays des Illinois*, see *Wild Frenchmen and Frenchified Indians: Material Culture and Race in Colonial Louisiana*, *op. cit.*

Indigenous cultures in the colonial period. Gordon M. Sayre, a specialist in colonial era literature, has described this imbalance in the sources as the “horns of a hermeneutic dilemma,” due to the fact that writers are trying to understand Indigenous perspectives while relying on colonial accounts.⁴ Sayre explained the first side to this dilemma as follows:

On the one hand lies an emphasis on the profound epistemological, psychological, and social differences of the cultural Other – in this case, American Indian cultures, separately and generally, from the Europeans. Taken to its extreme, this view holds that neither early explorers nor more recent anthropologists can fully understand the cultural Other, see as natives see and think as natives think, and that therefore all ethnographies are compromised by ethnocentrism.⁵

There is truth in this position, it is part of the human condition that we can ever fully understand our own contemporaries, let alone profoundly different cultures. To emphasize this has merit, as it fosters a humility that is necessary when engaging in such studies. It also leads scholars “to search for more ‘authentic’ Native American voices in oral literature” and other texts, which is positive – though there remains an important epistemological question as to what constitutes authenticity.⁶ Ultimately, however, one is confronted with the limitations of the source material, as will be discussed in the coming chapters. As for the other side of the dilemma:

The opposite horn of the dilemma is not a naïve acceptance of colonial ethnographies as objective descriptions, but a sense of human culture as an organic whole, of certain features, such as mythic archetypes, as operating in all cultures, and of the categories of the colonist regard for the American Indians, such as the Noble and Ignoble Savage, as more than mere ethnocentrism.⁷

⁴ Gordon M. Sayre, *Les Sauvages Américains: Representations of Native Americans in French and English Colonial Literature*, Chapel Hill (N.C.), University of North Carolina Press, 1997, p. 28.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*, pp. 28–29.

Again, there is some truth in the idea that human culture forms a whole, despite many profound differences between individual societies. What can be said, without controversy, is that both language and legal culture are universal features of human society. It is beyond the scope of this study to trace the limits of these universal features, it suffices to acknowledge that questions of justice can be meaningfully discussed between members of very different societies, though mutual understanding may not be forthcoming. For example, Katherine A. Hermes identifies the priority of fairness over procedure as a common feature of Algonquian and European legal cultures:

Both Algonquian and European shared the jurisprudential precept that substance (the fairness of the decision) was valued over form (procedural process). The native American culture united with an Anglo-European legal experiment in the colonial period to produce the conditions under which ideas of substantive justice flourished. “Let them have justice,” William Penn wrote of the Delaware Algonquians, “and you win them.” And so justice, if not always practiced, was at least recognized as a tangible objective.⁸

The extent to which different parties understood each other’s positions varies, however. So is the ability of historians to see through the limitations of the source material, which remain overwhelmingly written by outsiders.

The solution, as Sayre indicated, is “a more holistic approach to the sources, one that is both rhetorical and historicist [...] judging the texts of colonial authors along with other sources to find the facts that are most likely to be true and the opinions that are held by a consensus of eyewitness observers” and, also, considering the backgrounds and experiences of the colonial authors in order to better understand why they wrote as they did.⁹ In other words, it is necessary to consider both sides of this dilemma, but one must

⁸ Katherine A. Hermes, “‘Justice Will Be Done Us’: Algonquian Demands for Reciprocity in the Courts of European Settlers,” in Christopher L. Tomlins and Bruce H. Mann, eds, *The Many Legalities of Early America*, *op. cit.*, p. 128.

⁹ Gordon M. Sayre, *Les Sauvages Américains: Representations of Native Americans in French and English Colonial Literature*, *op. cit.*, pp. 29–30.

also accept that one can only work within the limitations of the source material. The task, then is to endeavour to harness sources that provide a closer understanding of Indigenous perspectives, such as the Miami-Illinois–and–French dictionaries, while at the same time approaching the colonial sources with a critical eye.

The Miami-Illinois language and its speakers

As mentioned above, an important part of this research is the use of Miami-Illinois–and–French dictionaries compiled by Jesuit missionaries in the late 17th and early 18th centuries. As these form a focal point of this work, it is useful at this point to provide some information about them here. One can take the 18th-century term <Ni8ntatchim8iro> as a starting point. This is from the Miami-Illinois language, and has been translated as “commence par la a raconter [begin by telling me that (i.e., a story)]” as well as “raconte en commençant, reprenant la chose depuis la [begin to tell, take up the thing from there (my translation)].”¹⁰ It is one of over 65 000 words and phrases recorded by French missionaries.¹¹ That this request to begin a story at a certain point, or to retell it, is indicative of the missionaries’ attempts to learn the Miami-Illinois language, of which the dictionaries were aids that were constantly being added to and corrected. It also fits well with the matter at hand as it is necessary to provide a rapid introduction to the Miami-Illinois language, at least as it was in the Early Modern period.

¹⁰ LG, 352:14 and 22; LB, 140:50; Pierre-François Pinet (PN), *Manuscript [French and Miami-Illinois Dictionary]*, (c. 1702), 126:25.

¹¹ Throughout this text the term ‘French’ is used to indicate those who were considered as French in the colonial period. This covered not only those who came to the colonies from France but also their descendants, who could be of mixed heritage. The main attributes associated with being French were language, custom and Roman Catholicism. Skin colour was also an important, though not immutable, criteria.

The Miami-Illinois language

The first thing that is necessary to do is to place the Miami-Illinois language in its broader context. David J. Costa, a linguist whose research into Miami-Illinois has been central to the efforts to revitalize this language, has described it as follows:

Miami-Illinois is an Algonquian language originally spoken in the earliest contact period in what is now Indiana and Illinois. Its closest relatives are Ojibwe-Potawatomi and Sauk-Fox-Kickapoo, originally spoken in Michigan to the north of the Miami. Taken together with Shawnee, these four language groups constitute what has been called the Eastern Great Lakes subgroup of Algonquian.¹²

As part of the Algonquian language family, Miami-Illinois is connected to languages spoken from the Atlantic seaboard to the Great Plains. While these languages share similar grammatical constructions and common root words, they are also very diverse. To illustrate this in 1723, the Jesuit missionary Sébastien Rasles compared the translations of a stanza of the hymn *O salutaris Hostia* into three Algonquian languages, including Miami-Illinois. This has been reproduced, along with the French and English translations, below:

Abenaki

Kighist 8i-nuanur8inns
Spem kik papili go ii damek
Nemiani 8i k8idan ghabenk
Taha saii grihine

Algonquin

K8erais Jesus teg8senam
Nera 8eul ka stisian
Ka rio vllighe miang
Vas mama vik umong

English

O saving Victim,
who art continually sacrificed.

¹² David J. Costa, *The Miami-Illinois language*, *op. cit.*, p. 1.

And who givest life, thou by whom we enter into Heaven, we are all
tempted;
do thou strengthen us.

French

O Hostie salutaire!
Qui es continuellement immolée, et qui donnes la vie;
toi par qui on entre dans le ciel, nous sommes tous attaqués
ça fortifie-nous.

Miami-Illinois

Pekiziane manet8e
Piaro nile hi Nanghi
Keninama 8i 8 Kangha
Mero 8inang 8siang hi.¹³

Of course, this is a conceptually complicated hymn, which therefore lends itself to a variety of translations depending on stylistic choices. Nevertheless, this comparison brings into focus the individuality of these languages and the fact that, as Rasles observed, “l’usage est le seul maître qui puisse nous instruire [practice is the only master that is able to teach us].”¹⁴ Despite familiarity with other Algonquian languages, French explorers, missionaries and colonists needed to live and work with Miami-Illinois speakers in order to master their language. This, in turn, means that the linguistic sources that are considered in this study must be seen as collaborative works between the Jesuits and Indigenous contributors.

Miami-Illinois speakers

Three hundred years ago Miami-Illinois was the common tongue of the Myaamias (*myaamiaki*) and Illinois (who referred to themselves as *inohka*), with a number of

¹³ Drawn from JR, vol. 67, pp. 146–149 (a Huron-Wendat translation was also given but has not been reproduced here); see also Rasles, Sébastien, “Lettre du P. Rasles à son frère, 12 octobre 1723,” in *Lettres édifiantes et curieuses concernant l’Asie, l’Afrique et l’Amérique*, vol. 1, Paris, Auguste Desrez, 1838, p. 678.

¹⁴ JR, vol. 67, p. 146–7.

dialectal variations spoken in an area roughly bounded by the southern shore of Lake Michigan, the Mississippi and Ohio rivers.¹⁵ This area became known to the French as the *Pays des Illinois*, after the political dominance of this group. This study will focus primarily on the Illinois, as they had the closest ties to the French and, due to this, present the widest selection of sources treating the subject to crime and punishment in the colonial record. This said, sources connected to the Myaamias will also be drawn on to complement and add nuance to these.

In the 17th and 18th centuries the *Pays des Illinois* was controlled by an eponymous alliance, whose name appears to have been derived from a 17th-century Miami-Illinois word <iren8e8a>, pronounced *irenweewa*, meaning “he speaks in the regular way, the ordinary way.”¹⁶ This, as the linguist David J. Costa has shown, was most likely the root of the “old Ojibwe, *ilinwek*, from an implied singular *ilinwe*. Given that in the seventeenth century, the French name ‘Illinois’ would have been pronounced exactly [ilinwe], it seems most likely that this term was borrowed from Illinois into Ojibwe, and then borrowed from Ojibwe in French as ‘Illinois’.”¹⁷ It seems probable that the word came into Anishinaabemowin via the Myaamias, as it would make sense for them to refer to the Illinois as speaking in the regular fashion, given their shared language.¹⁸

¹⁵ In this study modern spellings of the names of Indigenous peoples have been applied where appropriate. However, there are many references to names that are historic. In this case, the standard English form has been retained, with the Miami-Illinois appellation provided initially. When more than one name or spelling is found, such as Myaamia and Miami, the one currently in use has been retained.

¹⁶ David J. Costa, “On the Origins of the Name ‘Illinois’,” *Le Journal*, vol. 24, n° 4, 2008, p. 8.

¹⁷ David J. Costa, “Miami-Illinois Tribe Names,” in John D. Nichols, ed., *Papers of the Thirty-First Algonquian Conference*, Winnipeg, University of Manitoba, 2000, pp. 30–53.

¹⁸ The term “Illiniwek” has been adopted by some as it appears more authentic than the modern English rendering of “Illinois.” However, as Costa noted, “neither ‘Ilinioüek,’ ‘Illiniwek,’ nor, least of all, ‘Illini’ are legitimate names for the Illinois in modern English usage [...] Based on long-established massive precedent, ‘Illinois’ would seem to be the only one of the older names legitimately usable as a name for the tribe.” The ethnonym “Inoka” could also be used, though it has not been adopted in this study as it is absent from the historiography of the *Pays d’en Haut*, see David J. Costa, “On the Origins of the Name ‘Illinois’,” *art. cit.*, p. 8.

At this time the Illinois consisted of the Cahokias (*kaawakiaki*), Kaskaskias (*kaahkaahkiaki*), Michigameas, Peorias (*peewaaliaki*), and Tamaroas. These are the five tribes that are mentioned after 1700, though early accounts list up to 12. These probably refer to subgroups, or errors of comprehension on the part of the transcriber.¹⁹ The Myaamias (*myaamiaki*) shared many cultural similarities with the Illinois, and the groups spoke mutually intelligible dialects, as noted by LeBoullenger in the entry for <teca8i caïrgir8e8oki in8ca miami8>, which means “l’Illinois et le miamis parlent un peu differ [the Illinois and the Miami speak a little differently].”²⁰ However, this similarity did not extend to a political affiliation in the 18th century.

In the latter half of the 17th century, the Grand Village of the Kaskaskias and surrounding settlements saw the height of Illinois power and influence, with estimates of a population of some 20 000 individuals congregating in this sprawling settlement, including Myaamias and Shawnees as well as Illinois groups.²¹ This, however, was followed by the disintegration of the Grand Village in the 1680s, driven by warfare and internal divisions.²² In the 18th century, disease and warfare saw the power of the Illinois ebb, a phenomenon accentuated by the growth of French settlements. During this period the expansion of slavery, religious conversions and intermarriages created a uniquely diverse society on the shores of the Mississippi, and it is from the records of this period

¹⁹ Charles Callender, “Illinois,” *art. cit.*, Washington (D.C.), Smithsonian Institution, 1978, p. 673.

²⁰ LB, 328:14; note that LeBoullenger is also spelt Le Boullenger or Le Boulanger.

²¹ Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, East Lansing (Mich.), Michigan State University, 1979, p. 55; Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*, New York, Cambridge University Press, 1997, p. 14.

²² Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, Philadelphia, University of Pennsylvania Press, 2015, p. 64; Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, *op. cit.*, pp. 229–230; Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*, *op. cit.*, p. 48.

that most of this research is built.²³ This was a society over which the French, and later British and American authorities, sought to extend their control. It was also a society that would be greatly diminished in size as a result of colonization and forced displacements.

From the 1770s onwards, the Illinois struggled to resist two existential threats: the encroachments on their territory by other Indigenous groups and by Euro-American settlers. By 1803 the Kaskaskias had ceded much of their land to the United States government, and in the 1830s, the last Illinois families moved to a reservation in Kansas, and later to Northeastern Oklahoma.²⁴ Here, in 1939, they adopted the name “Peoria Tribe of Indians of Oklahoma.” Following a similar trajectory, though one that was forced on them at gunpoint by the US government, the Myaamias also settled in the west. Here they would incorporate a number of Illinois groups and eventually adopted the name of the “Miami Tribe of Oklahoma.”²⁵

Life in the *Pays des Illinois*

Turning back to life in the *Pays des Illinois*, this area had long been the home of complex societies thriving on maize-based agriculture. When the great medieval cathedrals were being built in Europe, the site of Cahokia saw the erection of stepped mounds, centres of civic and religious life.²⁶ The largest, known now as Monk’s Mound, would have taken some 370 000 hours of labour to complete. Here the seasons were monitored through large circles of wooden posts and trade networks brought in goods and

²³ Sophie White, *Wild Frenchmen and Frenchified Indians: Material Culture and Race in Colonial Louisiana*, *op. cit.*, chaps. 1–3.

²⁴ Charles Callender, “Illinois,” *art. cit.*, pp. 678–679.

²⁵ Charles Callender, “Miami,” in Bruce G. Trigger, ed., *Handbook of North American Indians*, vol. 15, Washington (D.C.), Smithsonian Institution, 1978, pp. 681–689.

²⁶ This juxtaposition is drawn from Daniel K. Richter, *Before the Revolution: America’s Ancient Pasts*, Cambridge (Mass.), Harvard University Press, 2011, p. 37.

people from afar.²⁷ The site was abandoned after 1300, following a series of catastrophes: droughts, wars and earthquakes undermined a once powerful society.²⁸ In the period that followed shifts in culture and population occurred, the history of which can be partly reconstructed from the archaeological record. While the area was not touched directly by the 16th century incursions into the St. Lawrence and Mississippi Valleys by Jacques Cartier and Hernando de Soto, respectively, repercussions of these would have been felt before the arrival of the first Europeans in the region.²⁹ It appears that first a Siouan-speaking people, referred to as the Oneota, established themselves in this area, followed by the Illinois. The Illinois appear to have absorbed the Oneota into their society and to have adopted many aspects of their way of life, particularly the use of the Calumet, the symbolism of the thunderbird, and an economy that centred on the bison hunt.^{30, 31}

The *Pays des Illinois* in the late 17th and early 18th century can be conceived of as a series of islands of habitation linked by land and, above all, river systems (see Map 2.1).³²

²⁷ *Ibid.*, pp. 21–24.

²⁸ *Ibid.*, p. 32.

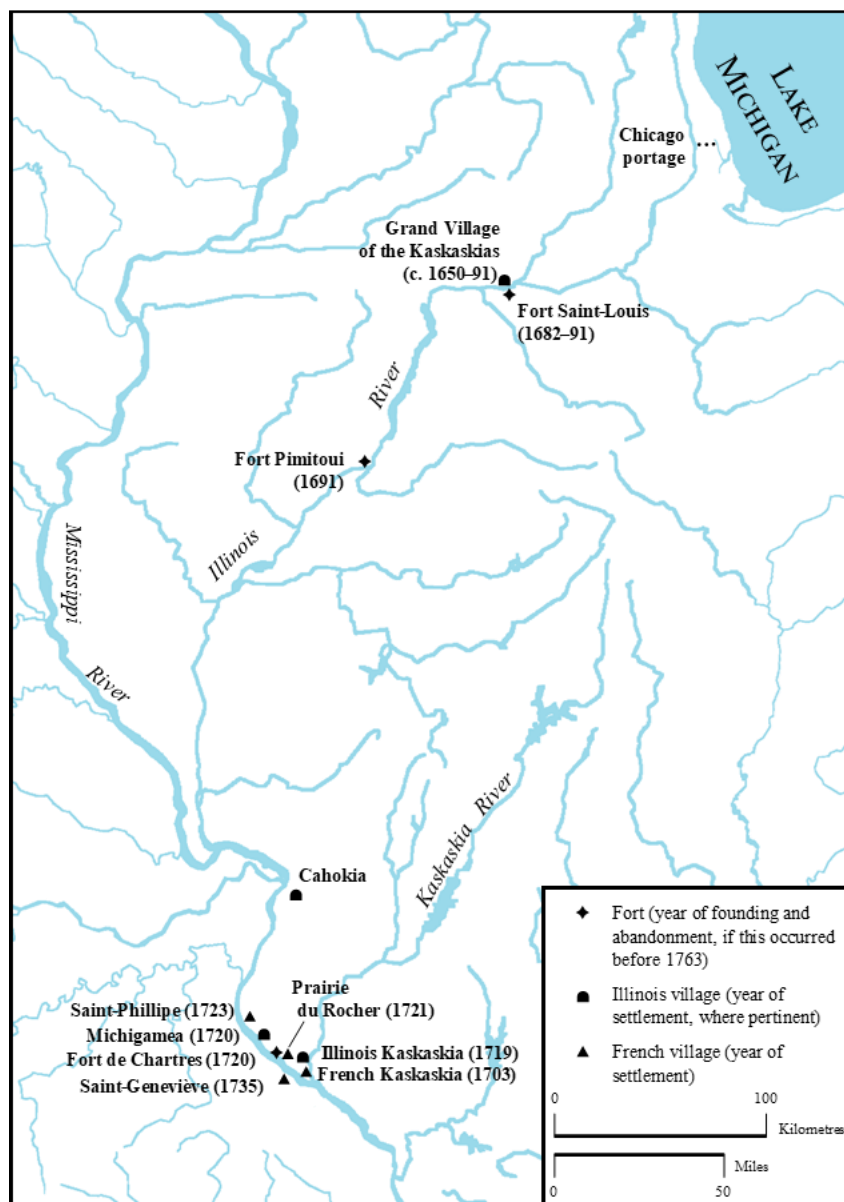
²⁹ Alan Taylor, *American Colonies: The Settling of North America*, New York, Viking, 2001, pp. 71–72.

³⁰ Note that the word “calumet” is used both to refer to a sacred object and to Indigenous pipes, the distinction between which can be likened to that between the Eucharist and bread (or wine) insofar as it concerns ritual and everyday use. Here it is capitalized when referring to it as a sacred object; Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, pp. 39–62.

³¹ This can be seen in one of the earliest objects that the French acquired in the *Pays des Illinois*, an Illinois painted hide adorned with a beautifully stylized image of a thunderbird. This can be consulted online at <www.quaibranly.fr/fr/explorer-les-collections>. *Robe peinte*, c. 1650–1750. Musée du Quai Branly – Jacques Chirac, Catalogue number 71.1878.32.134. This quintessential motif of the Plains indicates not only the adoption of new symbols, but also the probable absorption of other groups into the Illinois culture before the contact period.

³² For an overview of this riverain ecology, see M. J. Morgan, *Land of Big Rivers: French & Indian Illinois, 1699–1778*, Carbondale (Ill.), Southern Illinois University Press, 2010, pp. 10–42.

Map 2.1. The *Pays des Illinois* with river systems highlighted³³



While connected to the Atlantic world by the Mississippi and Saint Lawrence rivers, it remained separated from the centres of imperial power due to its position on the extremity of this emerging global system. While this land was on the fringes of the French imperial sphere of influence, it was also a borderland between different ecological areas:

³³ For the sources used to make this map, see note for Map 1, as well as Carl J. Ekberg and Pregaldin, Anton J., "Marie Rouensa-8cate8a and the Foundations of French Illinois," *Illinois Historical Journal*, vol. 84, n° 3, 1991, p. 151.

Ecologically it marked the transition between the woodlands of the East and the grasslands of the West, and it was the beginning of the distinctive tallgrass prairies of the middle of the continent. In a social and cultural sense, the Illinois Valley was the transition point between two broadly contrasting groups of people – Great Lakes Algonquians and the Siouan and Caddoan speakers of the plains.³⁴

When the first French explorers and traders entered this region, they were the latest in a long line of cultural groups to bringing their own customs and traditions into an area of long-standing cultural exchanges.

This area was dominated by the seasons for both the French settlers and Illinois. Indeed, of the French inhabitants in the Illinois Country, George Henri Victor Collot observed that, at the end of the 18th century, certain aspects of Illinois cultural heritage were still present amongst the French population:

[Ils] ne parlent plus qu'un français corrompu, espèce de jargon, et ont oublié jusqu'à la division du temps et des mois. Si on leur demande dans quel temps telle chose s'est passée, ils répondent, du temps des grandes eaux, des fraises, du maïs ou des pommes de terre.³⁵

[They cultivate little or no ground, speak a French jargon, and have forgotten the division of time and months. If they are asked at what time such an event took place, they answer, "in the time of the great waters, of the strawberries, of the maize, of potatoes."]³⁶

What this French officer turned spy observed was a cultural transfer, the French settlers having adopted the Illinois divisions of the seasons. For the Illinois, the yearly cycle was one of gatherings and separations. In the 17th century they can be described as being semi-sedentary, spending winters in small camps devoted to hunting, and congregating in

³⁴ Robert Michael Morrissey, "The Power of the Ecotone: Bison, Slavery, and the Rise and Fall of the Grand Village of the Kaskaskia," *The Journal of American History*, vol. 102, n° 3, 2015, pp. 668–9.

³⁵ George Henri Victor Collot, *Voyage en Amérique septentrionale*, vol. 1, Paris, Arthus Bertrand, 1826, p. 318.

³⁶ George Henri Victor Collot, *A Journey in North America*, vol. 1, Paris, Arthus Bertrand, 1826, pp. 232–233.

villages in the summer around which the women, in particular, would tend crops of maize.³⁷ The seasonal cycle of the Illinois:

[...] began near the end of March or in early April when the people returned from their winter camps to congregate at semipermanent summer villages. When the crops of maize were hilled up, usually at the beginning of June, most of the residents of the villages left for a communal bison hunt that lasted five or six weeks. The first crop of maize was harvested and dried at the end of June; a second harvest took place in late August. In the fall the villages were again deserted as the Illini left to establish their winter hunting camps.³⁸

Their economy was based on the cultivation of maize, beans and squash, with hunting (especially of bison) and fishing providing meat and hides. An illustration of the various activities of an Illinois village throughout the year can be seen in Model 2.1. This shows the seasonal rhythms that dominated Illinois life. Large communities generally gathered in the summer and autumn, while the winter months tended to see the establishment of smaller winter camps in order not to exhaust the available resources.³⁹ Spring saw the beginning of agricultural activity, with the month of May being called <m8na kir> “on pioche [we hoe].”⁴⁰ The beginning of June saw a communal bison hunt in which most of the village would participate, and would last for five to six weeks.⁴¹ This event will be considered below as the hunt was an important moment and held a particular place in the Illinois legal order as it required a collective discipline.⁴² The autumnal months were ones of harvest and preparation for the winter. Hunting camps were

³⁷ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, op. cit., p. 584.

³⁸ John A. Walthall, F. Terry Norris and Barbara D. Stafford, “Woman Chief’s Village: An Illini Winter Hunting Camp,” in John A. Walthall and Thomas E. Emerson, ed., *Calumet et Fleur-de-Lys: Archaeology of Indian and French Contact in the Midcontinent*, Washington and London, Smithsonian Institution Press, 1992, p. 148.

³⁹ *Ibid.*

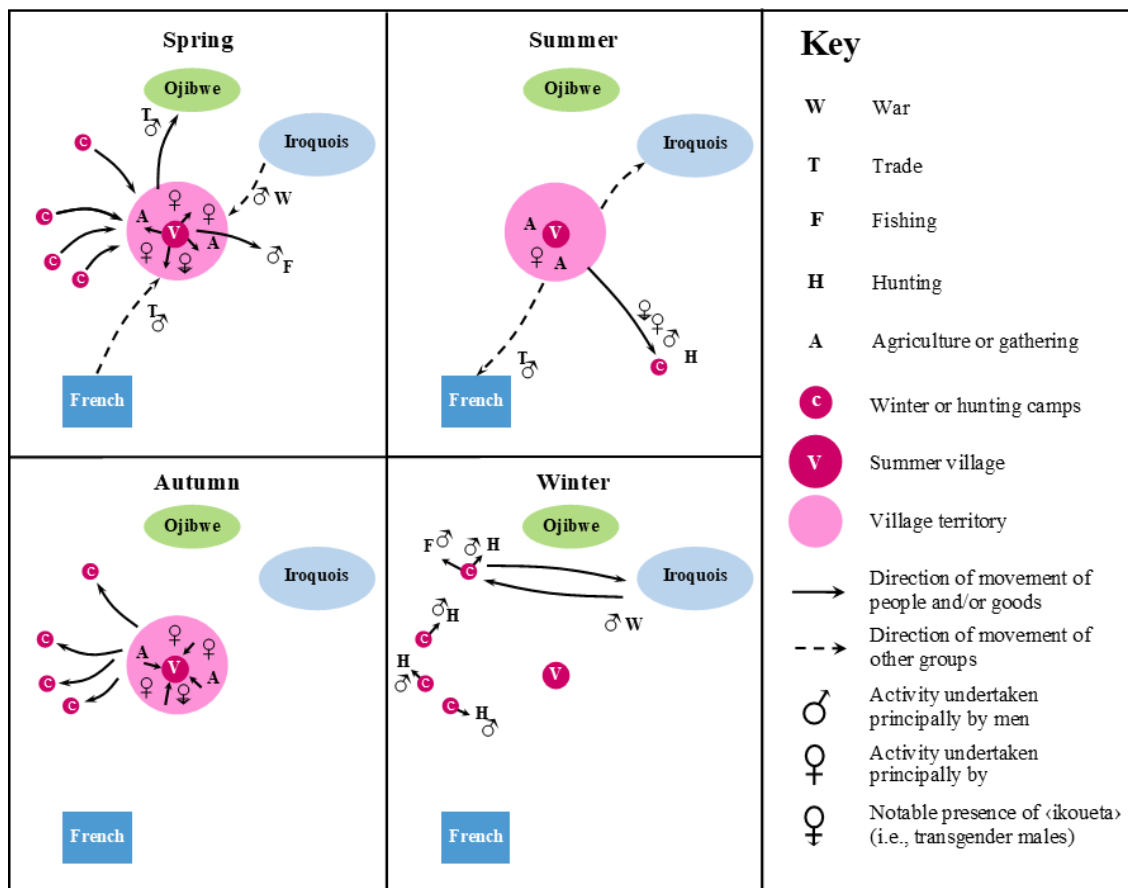
⁴⁰ LB, 276:5; see also Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” in Theodore Calvin Pease and C. Raymond, ed., *French Series: The French Foundations. 1680–1693*, Springfield (Ill.), Illinois State Historical Library, 1934, p. 339.

⁴¹ *Ibid.*, pp. 307–323.

⁴² *Ibid.*, p. 340.

established in the winter months, and the village might be temporarily abandoned if necessary. Both trade and warfare were also an important feature of the annual cycle, with preparations for expeditions being made in February.⁴³ War bands would be active in the early spring, though this did not preclude warfare being conducted at other periods.

Model 2.1. Spatial aspects of the Illinois seasonal cycle⁴⁴



⁴³ *Ibid.*, p. 376.

⁴⁴ Model inspired by Conrad Heidenreich, *A History and Geography of the Huron Indians, 1600–1650*, Toronto, McClelland and Stewart, 1971, fig. 13; with information principally drawn from Pierre-Charles De Lette, “Memoir of De Gannes [De Lette] Concerning the Illinois Country,” *art. cit.* as well as; Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d’en Haut, 1660–1715*, *op. cit.*, pp. 586–584; John A. Walthall, F. Terry Norris and Barbara D. Stafford, “Woman Chief’s Village: An Illini Winter Hunting Camp,” *art. cit.*, p. 148.

Initial contacts with the French

The Swiss historian Urs Bitterli categorized “encounters between European and non-European cultures” into three basic types: contacts, collisions and relationships.⁴⁵ These, he noted, are not to be found in a pure form in the historical record, but rather they “mingle and interpenetrate, displaying peculiarities and complexities that result both from variations of time and place and from the differing mental structures of the participants in the encounter.”⁴⁶ For this study, investigating such “differing mental structures” will be of central importance, particularly as far as the concept of legal culture is concerned. However, before embarking on this, it is necessary to establish the nature of interactions between the French and the Illinois. According to the colonial records, the first recorded contact between the Illinois and French occurred in 1667, when the former visited the trading post at Chequamegon, on the south-west of Lake Superior.⁴⁷ The *Jesuit Relation* of 1666–67 includes a remark by the Jesuit Father Allouez on the potential for conversion of the Illinois:

l’ay appris, dit le Pere qui a decouvert toutes ces sottises, que les Iliniouëk, les Outagami, & autres Sauvages du costé du Sud, croyent qu’il y a un grand & excellent genie, maistre de tous les autres, qui a fait le Ciel & la Terre, & qui est, disent ils, du costé du Levant vers le pays des François.

[I have learned, says the Father who has brought to light all these follies, “that the Iliniouek, the Outagami, and other Savages toward the South, hold that there is a great and excellent genius, master of all the rest, who made Heaven and Earth; and who dwells, they say, in the East, toward the country of the French.]⁴⁸

⁴⁵ Urs Bitterli, *Cultures in Conflict: Encounters Between European and Non-European Cultures, 1492–1800*, Stanford, Stanford University Press, 1989, p. 20.

⁴⁶ *Ibid.*

⁴⁷ Charles Callender, “Illinois,” *art. cit.*, p. 678.

⁴⁸ JR, vol. 50, pp. 288–291.

It is in this period that the first image of an Illinois man that can be found in the French sources was created some time between 1667 and 1675 (see Figure 2.1).

Figure 2.1. A captain of the Illinois nation⁴⁹



⁴⁹ Louis Nicolas, *Codex Canadensis*, Gilcrease Museum, c. 1700, accession n° 4726.7 (public domain; source New York Public Library, <https://digitalcollections.nypl.org>); see also Louis Nicolas, François-Marc Gagnon and Réal Ouellet, *The Codex Canadensis and the Writings of Louis Nicolas: The Natural History of the New World/Histoire naturelle des Indes occidentales*, Tulsa (Okla.) and Montreal, Gilcrease Museum and McGill-Queen's University Press, 2011, p. 106.

This image provides us with a number of key elements to Illinois culture of this period. The long Calumet, or pipe, is a little exaggerated in length, though this serves to highlight its spiritual and political purpose. One can also see, on the arms legs and face the tattoos that were, at this period, a key feature of personal identity.⁵⁰ French curiosity was no doubt mirrored by the Illinois, who would have heard of the French presence in the *Pays d'en Haut* and who, most likely, had already been exposed to European trade goods. Indeed, it is possible that previous contacts had been made with French fur traders moving – often illicitly – around the Great Lakes. If this is the case, there appears to be no record of this in the French sources, or at least none which mentions the Illinois specifically.

Another version of a first encounter, involving the Myaamias, is given by Charles C. Trowbridge, who stayed with them over the winter of 1824–25 while he was in charge of the US Indian Agency in Green Bay. This Oral Tradition recounts what Bitterli's typography describes as a collision:

The Wyandots, who then lived upon Lake Huron, sent word to the Miamies and Potawatamies, that a strange people had arrived there, whom they feared because they were white and had long beards, and that they desired the assistance of their brethren to destroy them. When the Miamies & Potawatamies arrived they found four vessels loaded with French. The three nations ambuscaded and when the visitors had disembarked they attacked and destroyed them. A few remained in one of the vessels who hoisted sail and made their escape.⁵¹

One can see here a similar focus on the appearance, and alienness, of the outsider as is found in the French sources. As the Wendat are said to be living by Lake Huron, the events

⁵⁰ Gordon M. Sayre, *Les Sauvages Américains: Representations of Native Americans in French and English Colonial Literature*, op. cit., pp. 165–179; Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, Sillery and Paris, Septentrion and Presses de l'Université de Paris-Sorbonne, 2003, pp. 603–604.

⁵¹ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, Ann Arbor (Mich.), University of Michigan Press, 1938, p. 7.

recounted would have taken place sometime in the early 17th century, probably decades before the contacts made at Chequamegon, though little more can be said with any certainty.⁵² It is possible that this story either condenses or transposes different events. The fact that the Wendat, whose lands at this time were situated on the eastern end of Georgian Bay, would request assistance to expulse this French party is curious, as they were a powerful confederacy at this time. It would also have required time for messengers to be sent and support to arrive. It is also reasonable to question the size of the French party and number of casualties sustained. If this is the account of the ambush and repulsion of a party of fur traders, it would explain why there does not appear to be an equivalent account in the French sources – though this is, of course, speculation. Two things that can be taken from this story are that, firstly, this would appear to be the first time the Myaamias had encountered Europeans (though the Wendats appear to have already been familiar with them). Secondly, the most important part of the story is at the end:

Then the Wyandots told their allies. “You see brothers that these people tho’ they look like them, cannot be manitoos. They are unlike us, and their design in coming here must certainly be evil. We have placed the tomahawk in your hands, and you are now prepared to defend yourself against them. In the mean time if any more should arrive, we shall probably want your assistance in repelling them.”⁵³

Here we have a warning, which appears to have been passed down for two centuries, about the intentions of these colonizers. This, the Myaamias took to heart, insofar as they were much more reluctant to form relations with the French than the Illinois (though the Peorias also maintained their distance, both geographically and culturally).

⁵² The Wendat (called Huron in the French sources) abandoned their traditional homeland between Georgian Bay and Lake Simcoe in 1649, Bruce G. Trigger, *The Children of Aataentsic: A History of the Huron People to 1660*, Montreal and Kingston, McGill-Queen’s University Press, 1987, p. 789.

⁵³ Charles Christopher Trowbridge, *Meẽr̃m̃eẽr̃ Traditions*, *op. cit.*, p. 7.

These initial encounters were followed in 1673 by the expedition of Jacques Marquette and Louis Jolliet down the Mississippi.⁵⁴ The Jesuit missionary, Marquette, returned two years after this to minister to the Illinois, thus introducing an important new, and divisive, feature to Illinois society: Catholicism.⁵⁵ The appeal of the region to the Jesuits was not only their belief that the Illinois were predisposed to Christianity, but also the size of its population. A letter from 1676 noted, “aussi bien que le P[ère] Aloues estoit le seul qui pouvoit aller confirmer cette mission des Illinois qui est de cinquante mille ames dans une seule bourgade et que nous allions perdre [just as Father Aloues was the only man who could go to strengthen that mission of the Illinois which consists of fifty thousand souls in a single village, and which we would have lost].”⁵⁶ While fifty thousand would appear to be an exaggeration, it indicates the importance of the Illinois at this time. Modern estimates indicate that the population could have reached twenty thousand.⁵⁷

The Grand Village of the Kaskaskias

In the latter half of the 17th century, the Illinois (along with other peoples) had settled in the upper Illinois Valley. Here they had been concentrated in a large and sprawling settlement that has become known as the Grand Village of the Kaskaskias (see

⁵⁴ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, pp. 66–71.

⁵⁵ Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*, *op. cit.*, pp. 56–57.

⁵⁶ JR, vol. 60, pp. 129–131.

⁵⁷ For an overview of evidence concerning population numbers, see Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, *op. cit.*, pp. 227–230; for a detailed study, see Joseph Zitomersky, *French American-Native Americans in Eighteenth-Century French Colonial Louisiana: The Population Geography of the Illinois Indians, 1670s–1760s*, Lund, Lund University Press, 1994, 413 pp.

Map 2.1).⁵⁸ This period of population concentration was in part a consequence of warfare. They had first been attacked by an Iroquois contingent in 1655, and in 1680 the Grand Village, located at Starved Rock, was attacked by the Senecas, the western most nation of the Iroquois Confederacy (the *Haudenosaunee*).⁵⁹ This may have been a response to Cavalier de La Salle's activities in the Mississippi Valley, an attempt to limit the expansion of French trade to the west. The conflicts of this period have become known as the "Beaver Wars," given the growing importance of European trade goods and military alliances in conflicts between Indigenous groups in the *Pays d'en Haut*.⁶⁰ As the accounts of these wars are drawn in large part from French sources, however, the importance of European considerations may be given too great a place.⁶¹ Whatever the political considerations, the attacks were devastating, with hundreds being killed or captured.⁶² La Salle's account provides a chilling view on the violence of this conflict, akin in horror (though on a lesser scale) to the conflicts that ripped apart 17th-century Europe. Take for example, the account from the 5th of January 1681 of an Illinois village that had been attacked and recently abandoned by Iroquois warriors:

Il y en avoit encore dans des chaudières qu'ils avoient laissées pleines sur des feux que nous trouvasmes esteints. Ils en avoient fait mourir de mille sortes de tourments. Les uns estoient rostis, excorchez, mutilez, les nerfs arrachez, et ce qui nous avoit paru de loin estoient des testes et

⁵⁸ White considered the Grand Village as a refugee centre, Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, Cambridge, Cambridge University Press, 1991, p. 24; whereas Morrissey saw it as an indicator of growing Illinois power Robert Michael Morrissey, "The Power of the Ecotone: Bison, Slavery, and the Rise and Fall of the Grand Village of the Kaskaskia," *art. cit.* It is most likely that the situation was a mixture of both these two principles.

⁵⁹ Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, p. 29; Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*, *op. cit.*, pp. 14–17; Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, pp. 54–55.

⁶⁰ Thomas S. Abler and Elisabeth Tooker, "Seneca," in Bruce G. Trigger, ed., *Handbook of North American Indians*, vol. 15, Washington (D.C.), Smithsonian Institution, 1978, p. 506.

⁶¹ For a discussion on the Illinois position, see Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, p. 52.

⁶² Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*, *op. cit.*, p. 14.

des corps entiers de femmes et d'enfans, rostis, embrochez aux piquets qui estoient debout.⁶³

[There were still bodies in the full kettles that were left on the fire, which had gone out when we found it. They had put them to death with a thousand torments. Some had been roasted, flayed, mutilated, with their nerves ripped out. Those we had seen at a distance turned out to be heads and bodies of women and children, burnt and impaled on stakes set upright. (my translation)]

Such violence was a common feature of warfare in the *Pays d'en Haut*, though the size of the population at this period changed the scale of warfare. Father Jean de Lambeville, located in the Iroquois mission at Onnontagué, reported that Iroquois warriors bought some 700 Illinois captives back from their raid in 1681. To these, who we are told were allowed to live, De Lambeville adds over 600 others killed and eaten following the Iroquois attack, as well as others who were killed on the march back.⁶⁴ Even if one questions the accuracy of these numbers, they are indicative of a major upheaval in Illinois society.

This violence acted as a catalyst to the growth of the Grand Village, as well as leading to its eventual abandonment. Population estimates are hard to establish, though at its zenith in 1683 it is possible that 20 000 individuals would have been present in the Grand Village and it has been called by one historian “North America’s largest population centre in the 1680s north of Mexico.”⁶⁵ This was a high point, as earlier population estimates put the population at about 12 000.⁶⁶ The rapid expansion was connected to the establishment of a French fort and trading post near the Grand Village in 1683, called Fort

⁶³ Pierre Margry, *Découvertes et établissement des Français dans l'Ouest et dans le Sud de l'Amérique Septentrionale, 1614–1754*, op. cit., p. 134.

⁶⁴ JR, vol. 62, p. 70.

⁶⁵ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, op. cit., p. 55.

⁶⁶ Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*, op. cit., p. 14.

Saint Louis. This drew not only the Illinois but also Myaamias and Shawnees into the Grand Village, with trade and, above all, defence as determining factors.

While comparable in population to the earlier settlement at Cahokia, the Grand Village lacked the permanent structures, such as the great mounds, that were a key feature of that settlement. The village also emptied during the winter as its inhabitants moved to winter camps, as was typical of the Illinois's seasonal activities.⁶⁷ The Kaskaskias appear to have supplied leadership and there are indications that there was a "grand Capitaine [great Captain]" who appears to have been selected from their number.⁶⁸ It is clear that certain Chiefs exerted a good deal of influence over the Illinois, though it is not clear whether this was a traditional position in the 17th century, or one that reflected a high level of political influence. In the 18th century records indicate a male line of succession for Chiefs, though this may not have been the case for those who were seen as Principal Chiefs.⁶⁹ The amount of power such a Chief wielded is not clear. In the 1670s a Chief of the Illinois is reported to have been "respecté dans sa cabane, comme seroit un Prince dans son Palais [respected in his cabin as a Prince would be in his Palace]."⁷⁰ Yet, writing in 1712, the missionary Father Gabriel Marest remarked:

Il y a pourtant des Chefs parmi eux, mais ces Chefs n'ont nulle autorité : s'ils usaient de menaces, loin de se faire craindre, ils se verraient aussitôt abandonnés de ceux mêmes qui les auraient choisis pour Chefs; ils ne s'attirent de la considération et du respect, qu'autant qu'ils ont, comme on parle ici, de quoi faire chaudière, c'est-à-dire, de quoi donner des festins à ceux qui leur obéissent.

[It is true, there are Chiefs among them, but the Chiefs have no authority; if they should use threats, far from making themselves feared, they would see themselves abandoned by the very men who had chosen them for Chiefs. They gain consideration and respect only while they have, as

⁶⁷ Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, *op. cit.*, pp. 228–229.

⁶⁸ JR, vol. 59, pp. 118–19; *Ibid.*, p. 235.

⁶⁹ *Ibid.*, p. 236.

⁷⁰ JR, vol. 55, p. 209.

is said here, wherewith to fill the kettle, – that is to say, wherewith to make feasts for those who are obedient to them.]]⁷¹

This may indicate the loss of power and influence of Illinois leaders following the abandonment of the Grand Village in the 1690s. On the other hand, European attitudes to power in the Early Modern period meant that respect and coercive power were intimately entwined, and the separation of these two attributes was hard to understand. It is interesting to note that the types of violence unleashed on enemies in the warfare in the *Pays d'en Haut* was wielded by European monarchs, and their representatives, over their own subjects. Burnings, disembowelments, flayings, and other such spectacles, were regularly applied in the administration of justice. As will be seen below, there was no such monopoly on vengeance in Illinois society, a fact that required a much more careful approach to the administration of law to maintain social cohesion.

Southern migrations

Alongside the conversion of some of the Illinois to Catholicism, reliance on trade goods would become a major feature of social transformation in the late 17th and 18th centuries for the Illinois. Following the construction of Fort Saint Louis at Starved Rock, Illinois villages and French posts became frequently linked. For example, when the Kaskaskias relocated their village to Pimitéoui in 1691, Henri de Tonti – who was then in command of the fort – also relocated.⁷²

Warfare and dislocation brought to a head tensions in Illinois society. On the one hand, there was a desire to strengthen their alliance with the French, key to their military

⁷¹ JR, vol. 66, pp. 218–20.

⁷² J. Joseph Bauxar, “History of The Illinois Area,” in Bruce G. Trigger, ed., *Handbook of North American Indians*, vol. 15, Washington (D.C.), Smithsonian Institution, 1978, p. 594.

strategy, a desire shared by the French officers in the *Pays des Illinois*. On the other hand, the missionary work of the Jesuits was beginning to disrupt Illinois traditions, particularly as this new religion was finding numerous converts amongst Illinois women. While evangelization was an integral part of the French colonial project, it has to be noted that the officers of the *Compagnie des Indes* and the Jesuits were acting with different, and sometimes opposing, goals. Tensions between these two groups were brought into focus over the question of the marriage of a seasoned fur-trader named Michel Accault and Marie Rouensa-8canic8e, the daughter of the Kaskaskian Chief Rouensa. Marie, who would have been about 17 in 1694, was foremost amongst the young women who became the ardent converts to Christianity, and she appears to have been attracted to a celibate life. Michel Accault, according to the missionary accounts, was a poor Christian “fameux en ce pays des *Illinois* par toutes ces debauches [famous in this Illinois country for all his debaucheries]” and opposed to the Jesuits (the two were clearly connected in the minds of the writers).⁷³ The match, however, would serve to deepen the French-Kaskaskian alliance and so was supported both by Rouensa and the French officers. Nevertheless, Marie stood her ground and ended in accepting the marriage provided her parents and suitor conformed to proper Christian values.⁷⁴ Her strength of character seems to have prevailed, as we are told that she was able to reform the behaviour of Michel Accault and to convince her parents to convert. As the information on this situation comes almost exclusively from the *Jesuit Relations* it is reasonable to wonder whether aspects of it were exaggerated, for

⁷³ JR, vol. 64, pp. 212–13

⁷⁴ For a detailed account of Marie Rouensa-8canic8e’s life, see Carl J. Ekberg and Anton J. Pregaldin, “Marie Rouensa-8canic8e and the Foundations of French Illinois,” in Rebecca Kugel and Lucy E. Murphy, ed., *Native Women’s History in Eastern North America before 1900*, Lincoln and London, University of Nebraska Press, 2007, pp. 203–233.

example the extent to which Michel Accault's behaviour changed (or whether it had been particularly debauched beforehand). However, Marie was definitely a convinced convert and acted on her faith, as can be seen in 1725 when she disinherited one of her sons, Michel Aco (Accault or Ako), for marrying an Illinois woman who was not a Christian (though she softened her attitude a little six days later to allow him to inherit on the condition that he returned repentant).⁷⁵ Here one can observe an interaction between French and Illinois legal cultures around the questions of marriage and inheritance. These events were also important in that they lead to the conversion of Chief Rouensa and his wife, a turning point for the mission and Illinois society.

Chief Rouensa

Rouensa's story encapsulates the fortunes of the Illinois at the end of the 17th century, and as such merits a brief overview here. The little that is known about such an important figure is also indicative of the epistemological problems in reconstructing Indigenous history for the 17th and early 18th centuries. Rouensa was born sometime before 1660, though it is unclear when. Information on his life comes from missionary sources, and only a partial biography can be established – as is the case for all Illinois leaders in this period. There are no grounds for the assertion, sometimes encountered, that Rouensa and another man known as the “Grand Chef des Illinois,” Mamentouensa were the same person.⁷⁶ That this has been maintained by some is indicative of paucity of

⁷⁵ KM, 25:6:14:1 and 25:6:20:1.

⁷⁶ The genealogical work by Harry J. Moreau, *François-Xavier Mamentouensa “Chief Rouensa”: and his Louisiana descendants*, vol. 2, Baton Rouge (La.), Author, 2009 appears to be the source of this assumption. To be fair, the author's preoccupation was with the descendants of his daughter, Marie Rouensa-8canic8e, and not with the Chief himself. Nevertheless, it is clearly wrong: beyond discrepancies in age, Rouensa is referred to in a speech in 1723 at which Mamentouensa was present, “Les Chefs du Village des Kaskakias,

information on their lives. Rouensa was sympathetic towards the French, and advocated for the alliance with them. He was Chief of the Kaskaskias when they began moving south in 1691, a divisive moment for the Illinois. His daughter, Marie Rouensa-8canic8e, influenced him to adopt Christianity, and he was baptized with his wife in 1694, taking François-Xavier as his name (though this was accompanied by traditional Illinois feasts).⁷⁷ That this was the same name as the mission, and of one of the founders of the Society of Jesus, shows that the Jesuits both recognized the importance of his conversion and were keen to convey honour on him, after their own fashion. In 1699 he was referred to as “Le plus Considerable de chefs Illinois et tres bon Chrétien [the most notable of the Illinois Chiefs and a very good Christian].”⁷⁸ Following the dissolution of the Grand Village, divisions amongst the Illinois meant he lost much of his wider influence. There appears to have been a conflict over the Illinois alliance with the French and the adoption of Christianity, a conflict particularly split the Peorias and the Kaskaskias, as can be seen from this speech attributed to the relatives of a Peorian convert:

Que les *Kaskaskia* prient Dieu s'ils veulent et qu'ils obeissent à celui qui les instruit; sommes nous *Kaskaskia* et pourquoi lui oberois tu toi qui est *Peouareoua*? Puisqu'il t'a vexé il faut que tu declare publiquement que tu quitte la prière, quelle ne vaut rien [...]

[Let the *Kaskaskia* pray to God if they wish and let them obey him who has instructed them. Are we *Kaskaskia*? And why shouldst thou obey him, thou who are a *Peouareoua*? Since he has vexed thee, thou must declare publicly that thou abandonest prayer, that it is worthless.]⁷⁹

Savoir, Les nommes Kiaoueria, Michel, et Mamentoüensa ayant entendu dure qu'on voulois faire mourir le Sr Perillaud [...] demander la grâce”, 3 May 1723, ANOM, COL C_{13A} vol. 7, f. 321r.

⁷⁷ JR, vol. 64, pp. 179–181.

⁷⁸ Jean-François Buisson de Saint-Cosme, “3^e lettre : Copie d’une lettre datée de la Rivière Arkansas, le 2 janvier 1699,” in Noël Baillargeon, ed., *Les Missions du Séminaire de Québec dans la vallée du Mississippi, 1698–1699*, Québec, Musée de la Civilisation, 2002, p. 58; Jean-François Buisson de Saint-Cosme, “The Voyage of St. Cosme, 1698–1699,” in Louise Phelps Kellogg, ed., *Early Narratives of the Northwest, 1634–1699*, New York, Charles Scribner’s Sons, 1917, p. 351.

⁷⁹ JR, vol. 64, pp. 172–173 (italicization follows the original).

In 1706, after the Kaskaskias had left the Pimitéoui, a Chief named Mantouchensa (another individual that has been associated with Mamentouensa in error, though more plausibly than Rouensa) was selected to represent the Illinois to the governor of New France.⁸⁰ This probably represented a political move against Rouensa, whose role as leader of the Kaskaskias would have placed him at the head of the Illinois.⁸¹ Following the murder of a French soldier named La Giroffé by an Illinois man, Mantouchensa set out to negotiate a settlement with the governor of New France. At Michillimakinac he was convinced by some Ottawas to abandon this mission and instead to turn against the French alliance.⁸² This sparked of tensions that, in the same year, led to the missionary Father Gravier being gravely wounded, no doubt in connection to this conflict. On the request of Father Mermet, Rouensa sent four warriors to bring the wounded missionary to back to his village. These were under his orders to die with Gravier if necessary.⁸³ Unlike those serving the French king, these warriors were not under the discipline of death, no court martial awaited them were they to disobey. It follows that Rouensa's authority came from respect and not fear. This respect, can be seen in the mention that the village of Kaskaskia was referred to as "rouinsac" in 1718. This addition of the locative onto the name Rouensa indicates the influence of the Chief and his lineage.⁸⁴ The date of Rouensa's death is

⁸⁰ Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, *op. cit.*, p. 236.

⁸¹ JR, vol. 66, pp. 50–53.

⁸² Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, pp. 477–478.

⁸³ *Ibid.*, p. 56.

⁸⁴ Jacques-Charles de Sabrevois, "Mémoire sur les sauvages du Canada jusqu'à la Rivière du Mississipi, contenant les mœurs et le négoce de ces Sauvages", ANOM, COL C_{11A}, vol. 9, ff. 355r and 360v.

unknown, and it is likely that he was succeeded by another who bore his name, as there are references to the name Rouensa until the mid-18th century.⁸⁵

As the Kaskaskias increasingly adopted Christianity, tensions arose with the Peorias and the former moved away from Pimitéoui in 1700. They relocated first to Cahokia and then to the mouth of the Kaskaskia River in 1703.⁸⁶ With an increase in French traders, and settlers, came an increase in marriages between Frenchmen and Illinois women. This led first in Pimitéoui and then in Kaskaskia to a mixing of cultures, a mixing that was still discernible a century later, as observed by Collot. In the early 18th century, the villages of Kaskaskia and Cahokia were inhabited by both Illinois and French, though a separation between the French and Indigenous villages would be imposed by the French authorities in 1719. It is at this point that the Illinois's legal culture begins to find its way into the historical record in more than a fragmentary fashion.

Gender relations

Following this general overview of Illinois society and history in the late 17th and early 18th centuries, it is useful to trace a picture of gender relations and marriage customs, as recorded in the French sources, as these form a key part of the recorded legal culture of the Illinois. Here it is important to begin by bringing to the fore the women themselves. To find the earliest images of Illinois or Myaamian women one needs to turn to George Catlin's sketches, made in the 1830s though not published until the mid-nineteenth century. Figure 2.2 reproduces the portraits of three women who posed for Catlin. The

⁸⁵ Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, *op. cit.*, p. 236.

⁸⁶ J. Joseph Bauxar, "History of The Illinois Area," *art. cit.*, p. 595.

facial tattoos described by De Liette are not visible, suggesting that this practice had waned.⁸⁷

Figure 2.2. Illinois and Myaamian women⁸⁸



On the right is a Peorian woman, wife of the Chief Pah-me-cow-e-tah (the Man Who Tracks) whose portrait is shown in Figure 4.1. In the centre is a Kaskaskian woman, named as the mother of the Chief Kee-mon-saw. Finally, on the left is the wife of a Piankeshaw warrior whose name is given as Men-son-se-a (the Left Hand). The original sketches place these women in family groupings, beside their respective husband or son.

⁸⁷ Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, p. 329.

⁸⁸ George Catlin, *Souvenir of the N. American Indians as they were in the Middle of the Nineteenth Century*, London, Author, 1850, p. 71, 72 and 77 (public domain; source New York Public Library, digitalcollections.nypl.org).

The fact that their names are not recorded is indicative of the Catlin's patriarchal approach, something that was common, in varying degrees, to almost all the authors of the source materials being used in this work. Nevertheless, these images allow us to engage with these women's humanity, something that can be clouded by the filter of documentary evidence.

While women's statuses were varied in Illinois society, they could hold leadership roles and had a position in maintaining the legal order. The details surrounding this are few, however, and this remains an area of silence in the historical record. Trowbridge's assertion that Myaamian women were responsible for "a kind of curious examination or rather watching of the affairs of the village and the conduct of the villagers, information of which they sometimes convey to the male chiefs" is not found in the French sources.⁸⁹ These were all written by men, whose interactions with Illinois women would have been limited (the Frenchmen who married Illinois women have not left any detailed records). The Jesuits, in their missionary work, would have had close relationships with Illinois women converts, but this has to be balanced against the fact that they remained outsiders (not to mention the prevalence of misogyny in French society at the time). A lack of understanding or attention to this aspect of Illinois society is, therefore, not surprising. One entry from the Largillier-Gravier Dictionary does hint at something more: «Isc8antemi8a», for which the gloss reads "qui garde la porte c est ordnt. la plus agee consideree de la cabanne [(one) who guards the door. It is ordinarily the oldest, highly regarded woman of the lodge]."⁹⁰ Such leadership roles can be connected to the economic role that women held in Illinois society:

⁸⁹ Charles Christopher Trowbridge, *Meeārmeeār Traditions*, *op. cit.*, pp. 14–15.

⁹⁰ LG, 177:29.

[...] the subsistence economy rested squarely on the cultivation of vegetables, female enterprise. As a man's sisters got married and his mother got old, he and parents would become increasingly dependent upon his wife for a secure source of food. It is surely no accident that a daughter-in-law was addressed as *n8c8ma* "my grandmother" ("ma grand mere; ma bru disent le pere et la mere de leur bru"), and that she reciprocally called her parents-in-law *8ssemari* "her grandchild" ("son beau pere, sa belle mere dit bru"), besides *n8ssema* "my grandchild" ("mon petit fils, ma petite fille"). As a member wife-giving patrilineage, she was owed the highest respect.⁹¹

The domestic sphere was dominated by women in Illinois society, their dwellings are described as having one to four fires, with an average of two.⁹² Each hearth was the focus of domesticity, warmth and food, and was tended by the women of the lodge. The historical gender imbalance in Illinois society, which De Liette put at four women to one man, would naturally push men to the background when in the lodge or at periods when the village was gathered together (see Model 2.1).⁹³ The tradition, discussed below, of sororate marriage would also provide the women of a household with strong links between themselves and with their extended kin. This, however, was a situation on which the adoption of women war captives into households would act like a dissolving acid, weakening the position of women as a whole in this society at the end of the 18th century.

This said, the male occupations of hunting and warfare appear to have been seen as the most prestigious activities.⁹⁴ Concepts of masculinity in Aboriginal societies were bound up in these twin actions. To European observers, these were associated with aristocratic values, hence the claim that "L'Indien croit qu'il est de sa dignité de ne faire que la guerre et la chasse, les femmes sont absolument chargées de tous les travaux, elles

⁹¹ Paul Proulx, "Kaskaskia Illinois-to-French Dictionary," *Anthropological Linguistics*, vol. 44, n° 4, 2002, p. 417.

⁹² Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, p. 327.

⁹³ *Ibid.*, p. 329; Raymond E. Hauser, "An Ethnohistory of the Illinois Indian Tribe, 1673–1832," *op. cit.*, p. 232.

⁹⁴ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, p. 637.

sont les esclaves de leurs maris.”⁹⁵ This idea was due to a misunderstanding of the division of labour in these societies. It was so persistent, however, that George Bird Grinnell, when writing about the Cheyennes (another Algonquian-speaking people) in the early 20th century felt compelled to dispel it.⁹⁶ He observed that hunting and warfare were both difficult and dangerous occupations, and the men needed to remain unencumbered as their primary role was the defence of their family and village, hence certain tasks such as carrying loads being undertaken by women, contrary to European norms.

Marriage: customs and laws

Interactions between young men and women were few, for it was not seen as being appropriate for “une fille sage [a chaste girl]” to be seen talking to men.⁹⁷ Appearances were important, as can be seen in the gloss for <Anghih8itehes8cane>, which reads “dit on a une fille, demeure en repos sois sage, comme en luy faisant esperer de la bien marier. [One says (this) to a girl, remain calm, be good, as when making her hope to to be married off well.]”⁹⁸ Marriage involved a dowry, of sorts, arranged for by the man’s father or uncle:

Le pere s’il en a un, ou son oncle a son deffaut prend cinq ou six chaudières, deux ou trois fusils, des peaux de Cerfs, Chevreuils, Castors, des plats cotez de boeufs, des Etoffes et quelque fois une Esclave s’il en a, enfin de tout ce qu’il peut avoir selon ses Richesses et selon l’estime

⁹⁵ Scarlett Beauvalet-Boutouyrie and Emmanuelle Berthiaud, *Le rose et le Bleu: La fabrique du féminin et du masculin*, Paris, Éditions Belin, 2016, p. 259; Antoine-Denis Raudot, *Relations par lettres de l’Amérique septentrionale: Édition critique par Pierre Berthiaume, op. cit.*, p. 174; “Mémoire sur la Louisiane et les Illinois d’après un voyage fait dans l’intérieur du continent de l’Amérique, par le capitaine Bonnevie”, n.d. (before 1763), ANOM, COL DFC₄, p. 70.

⁹⁶ George Bird Grinnell, *The Cheyenne Indians: Their History and Ways of Life*, vol. 1, Lincoln and London, University of Nebraska Press, 1972, pp. 127–128; see as well, Gilles Havard, “« Il s’est levé plus de cent chevelures de femmes » : guerre et relations entre les sexes chez les Illinois (fin du XVII^e siècle),” in N. Caron and N. Wulf, ed., *Nouveaux regards sur l’Amérique. Peuples, nation, société. Perspectives comparatistes (17^e–21^e siècles)*, Paris, Syllepse, 2004, p. 156.

⁹⁷ Pierre-Charles De Lette, “Memoir of De Gannes [De Lette] Concerning the Illinois Country,” *art. cit.*, p. 330.

⁹⁸ LG, 33:22.

que Ton a pour la fille, il fait porter ces presens par des femmes ses parentes posent tout cela dans la Cabane de la fille [...]

[His father, if he has one, or his uncle in lieu of him, takes five or six kettles, two or three guns, some skins of stags, bucks, or beavers, some flat sides of buffalo, some cloth, and sometimes a slave, if he has one, in short something of all he has, according to his wealth and the esteem in which the girl is held. He has these presents delivered by women, his relatives, who deposit them in the cabin of the girl]⁹⁹

After a period of reflection, these could be returned if the match was not favoured (at which point the boy's family could return with more presents). If the match was acceptable, then the girl would be accompanied to her future husband's dwelling:

[...] ils portent plusieurs choses qui ressemblent a celles qu'on leur a portées, et la fille qui marche devant bien parée, de bandouillieres, de Rasades, porcelaines, et grelots [...] on met une peau d'ours ou de Boeuf ou de Cerf selon la saison dans le milieu de la Cabanne, sur quoy on fait asseoir la mariée, et les parents qui portoient les presens qui la suivoient s'en retournent.

[they carry back several things resembling those that were brought to them, and the girl marches ahead well adorned with shoulder straps, glass beads, porcelain, and bells [...] They spread a bear skin, or that of a buffalo or a stag, according to the season, in the middle of the cabin, on which they seat the bride, and the relatives who followed her carrying the presents return home.]¹⁰⁰

A return procession would then bring her back to her family with more presents, a process the could take place over four days. While the Jesuits mention a *dote* or dowry, it is better to describe this as a gift exchange that strengthened the bonds between families.¹⁰¹ The importance of the family as a key social and legal unit is highlighted in this practice. As mentioned above, polygyny was practised, at least by those who could support more than one wife. This appears to have been traditionally conducted in the form of sororate marriage:

⁹⁹ Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, p. 331.

¹⁰⁰ *Ibid.*, p. 333.

¹⁰¹ See «Bechihe8a 8echihata atintaaraganari» which is given as "on luy a donné pour dote un Esclave [people give him a male slave for a dowry]," in LG, 380:15. This illustrates the difficulty involved in describing another's legal culture within the limitations of one's own linguistic framework.

Ce sont ordinairement Les soeurs et les Tentés ou les Nieces de leurs femmes qu'il epousent Lesquelles ils appellant Nirimoua, quand un homme est bon chasseur, il est fort aisé depouser toutes celles qui sont a ce degré de parenté, ells l'appellent de la même maniere.

[It is usually the sisters and that aunts or nieces of their wives whom they marry. These they call *Nirimoua*. When a man is a good hunter, it is a very easy matter for him to marry all who stand within this degree of relationship. The women designate him in the same manner.]¹⁰²

The term <Nirimoua> is given as <Nirim8a> by Largillier, whose gloss reads, “mon beau frere, dit la femme, ma belle soeur, dit l’homme [my brother-in-law, says the woman, my sister-in-law, says the man].”¹⁰³ The modern form is *niilimwa*, and is translated as “My cross-sex sibling-in-law.”¹⁰⁴ The above mentioned gender imbalance was no doubt a contributing factor in polygyny.¹⁰⁵ Polyandry may have been practised at times as well, as evidenced by the case of a Myaamian woman who is recounted as having two husbands:

The arrangement was made in consequence of the wife having fallen in love with the second husband and being so honest as to disclose the fact to her first one, who was so pleased with the candour exhibited by her that he consented to the connexion. They each had children by her who were kept together under the charge of the wife, and were clothed by the joint labours of the husbands.¹⁰⁶

This may have been a unique situation, but at least shows that there was a fluidity in how gender relations could be perceived in the 18th century. Polygyny could be a source of tension, particularly as the Illinois “spared the lives of captured women more often than for men, there was a surplus of females living in households.”¹⁰⁷ On polygyny, Father Claude Allois made the following remarks in the narrative recounting his third voyage to the Illinois, in 1677:

¹⁰² Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 335.

¹⁰³ LG, 509:33.

¹⁰⁴ MP, “niilimwa”.

¹⁰⁵ Sophie White, *Wild Frenchmen and Frenchified Indians: Material Culture and Race in Colonial Louisiana*, *op. cit.*, p. 89.

¹⁰⁶ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, *op. cit.*, p. 44.

¹⁰⁷ Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, *op. cit.*, p. 68.

Ils ont plusieurs femmes, et ils en sont extrêmement jaloux ils les quittent pour le moindre soubson, elles se gouvernent bien pour l'ordinaire, et son honnestement vestües, non pas les hoes qui n'ont pas honte de leur nudité.

[They have several wives, and are extremely jealous of them, leaving them on the least suspicion. Usually these latter conduct themselves well, and dress modestly; not so the men, who feel no shame at their nudity.]¹⁰⁸

Questions of sexual morality and marriage customs in the 18th century pose a particular problem for historians as the sources that exist are all written by French men commenting from the outside. The Catholic mindset dominates most of the sources that have survived on this subject. Modern views of gender relations are also hard to separate from a historical perspective. When Morrissey notes that “some Illinois women endured oppression and even violence in their relationships in the 1690s. Whether slaves or free, many women in Illinois had very little control over their own bodies,” it is hard to assess the extent of this without falling into the trap of thinking anachronistically.¹⁰⁹ Young women in French and Illinois society were under the control of their families, as Gabriel Marest observed in 1699:

En récompense les femmes et les filles ont de grandes dispositions pour la vertu, quoique suivant leurs coustumes, elles soient esclaves de leurs frères pour espouser ceux qu'ils jugent a propos, mesmes les hommes déjà mariés a une autre femme. Il s'en trouve néanmoins plusieurs parmi elles qui resistent alors constamment et qui aiment mieux s'exposer aux mauvais traitements qu'on leur peut faire, que de rien commetre, en cette occasion, contre ce que prescrit le Christianisme pour le mariage.

[As a compensation, the women and girls have strong inclinations to virtue although, according to their customs, they are the slaves of their brothers, who compel them to marry whomsoever they choose, even men already married to another wife. Nevertheless, there are some among them who constantly resist, and who prefer to expose themselves to ill treatment rather than do anything contrary to the precepts of Christianity regarding marriage.]¹¹⁰

¹⁰⁸ JR, vol. 60, pp. 160–61.

¹⁰⁹ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, op. cit., p. 74.

¹¹⁰ JR, vol. 65, pp. 66–67

However, behind his comment lies both a disapproval of polygyny and the promotion of Christian principles of monogamous marriage. This is not to say that families did not extend a control over the young men as well. De Liette recounts that if a man is judged as having remarried too quickly after the death of his wife to a woman who was outside her family then:

[...] les parentes s'en vont dans la Cabane de l'homme, la, coupent toutes les peaux, brisent les chaudières sans que l'home remuë le moindrement, elles en font la même chose quand ils quittent leurs femmes sans raison pour en prendre d'autres de différentes familles.

[the feminine relatives invade the husband's cabin and cut up all the skins and break the kettles, the man never making a motion. They do the same thing when husbands, without sufficient reason, leave their wives and take others of different families.]¹¹¹

Such actions, which fall under the rubric of jurisprudences given that they embody a socially accepted sanction, tend to indicate that, while there were competing interests surrounding gender roles in Illinois society, it was not a patriarchal society in the sense that European societies were in this period.

The <ikoueta> or <ic8e8ita>

One aspect of Illinois society that was in sharp contrast to European customs was the presence of the <ic8e8ita>.¹¹² In the 17th century, the Illinois had a three-part conception of gender, consisting of men, women, and men who occupied women's roles.¹¹³ This third gender was noted by French explorer René-Robert Cavelier de La Salle as being called <Ikoueta>, and Largillier as <Ic8e8ita> (though he provides other variations of spelling) and

¹¹¹Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, pp. 360–61.

¹¹² LG, 133:3 and 169:1.

¹¹³ Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, p. 329.

LeBoullenger as *«Ec8e8ita»*.¹¹⁴ The members of this group were apparently identified in childhood, according to De Liette, due to their preference for activities normally reserved for girls. They should be distinguished from men who were forced to dress as women after showing cowardice, a punishment that appears to have been temporary.¹¹⁵ Raymond E. Hauser, whose 1973 ethnohistory of the Illinois remains an important source, has noted that the custom appears to have disappeared after 1698, though it is not possible to be definite about either the extent or rapidity of this change.¹¹⁶ Trowbridge wrote of the practice amongst the Myaamias in the 1820s:

There are among the Miamies, men, who assume the dress and character of women, and abandoning the society of their own sex, associate altogether with the females, taking an equal share in planting, hoeing & gathering the corn, in all the domestic drudgery, and in all other respects adhering strictly to their peculiar manners and employment.

They commence at an early period of life, during the fasting season, and it is said that the adoption of the manners of the other sex is the consequence of having seen in a dream a female who directed them to do so. They are generally respected in the nation, by both sexes, and the fact of their sex is not kept secret.¹¹⁷

This may indicate that the custom endured among the Illinois as well, though the dramatic drop in population that had occurred by the beginning of the 19th century would have meant it was less frequently encountered.¹¹⁸ The importance that dreams played in this is absent in earlier accounts, which generally perceived this practice as being imposed. The

¹¹⁴ “Lettre de Cavelier de la Salle, Au fort Frontenac, le 22 Aoust 1682” in Pierre Margry, *Découvertes et établissement des Français dans l’Ouest et dans le Sud de l’Amérique Septentrionale, 1614–1754*, vol. 2, Paris, D. Jouaust, 1879, p. 255; LB, 98:34; see also Raymond E. Hauser, “The Berdache and the Illinois Indian Tribe during the Last Half of the Seventeenth Century,” *Ethnohistory*, vol. 37, n° 1, 1990, pp. 45–65, in this article Hauser mistyped *«Ikoueta»* as “Ikoneta”, an error that has been taken up elsewhere. See for example, Laurence Hérault, “Transgression et désordre dans le genre : les explorateurs français aux prises avec les ‘berdaches’ amérindiens,” *Etnográfica*, 2010, pp. 337–360.

¹¹⁵ Jean-Bernard Bossu, *Nouveaux voyages aux Indes occidentales*, vol. 1, Paris, Le Jay Libraire, 1768, pp. 159–160.

¹¹⁶ Raymond E. Hauser, “The Berdache and the Illinois Indian Tribe during the Last Half of the Seventeenth Century,” *Ethnohistory*, vol. 37, n° 1, 1990, pp. 45–65.

¹¹⁷ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, *op. cit.*, p. 68.

¹¹⁸ Margaret Kimball Brown, *Cultural Transformations Among the Illinois: An Application of a Systems Model*, *op. cit.*, pp. 230–231.

name that Trowbridge attributes to them is <Waupeēgwoatar>, which he describes as “The White Face.”¹¹⁹ This is found in Largillier as <8abiking8eta>: “visage, tein blanc naturellement [naturally tinted white face].”¹²⁰ The earlier Jesuit dictionaries do not record a connection between this term and the <ic8e8ita>, which means one can only speculate as to the age and significance of this term.

Trowbridge’s assertion that the <ic8e8ita> were “generally respected in the nation, by both sexes” contrasts with the French description of the practice. The Jesuits used the term *bardache* to define this practice, which was derived from an Arabic word for a male sexual slave, which a contemporary dictionary translated as “a Catamite, a Boy for pleasure.”¹²¹ The French writers who penned a description of the <ic8e8ita> were categorical in their disdain: “Le Peché de sodomie Regne plus chez eux que dans aucune nations [The sin of sodomy prevails more among them than in any other nation].”¹²² Here a Christian-centred mindset and language is to be encountered in the primary sources, excluding nuance and – for the most part – any attempt at understanding the cultural practices at work. One can consider, for example, the following entry in the LeBoullenger manuscript: <ninitchekit8ca K.M. mere8oki min8tene ic8e8itchihi mechiritchihi>, given as “voila cōe D. a réduit en cendre un Village ou il y avoit des sodomites [this is how God reduced to ashes a village where there were sodomites].”¹²³ Classed under the keyword “reduire [to reduce],” this echoes the Jesuits teaching of the story of Sodom and Gomorrah

¹¹⁹ Note that the macron ‘ō’ is used to indicate a long vowel, Charles Christopher Trowbridge, *Meeārmear Traditions*, *op. cit.*, p. 68.

¹²⁰ LG, 365:30.

¹²¹ Frederick E. Hoxie, *Encyclopedia of North American Indians*, Boston, Houghton Mifflin Company, 1996, p. 67; Boyer, ed., *Dictionnaire Royal, François et Anglois*, vol. 1, 1772.

¹²² Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.* Note that the occasional translator’s comments have been removed or incorporated into the English translations of this source.

¹²³ LB, 358:22. A similar entry is found in LB, 402:35 under the keyword “traitter [to treat].”

(Genesis 19:1–28), which also happened to be one of the few parts of the Bible for which there exists a Miami-Illinois translation by the Jesuits.¹²⁴ While an important aspect of Illinois culture at the time, the *ic8e8ita* fall outside of the scope of this study insofar as there is nothing in the historical record that discusses their legal status or involvement in disputes. There is an indication, however, of them having an important political and spiritual role, as indicated by the entry for *Mitec8e8ita*, which is given as “c est une jongleuse [she is a shamaness].”¹²⁵ This corresponds with Trowbridge’s observation:

[...] ils sont appellés aux Conseils, ou l’on ne peut rien decider sans leurs advis; Enfin par la profession qu’ils font d’une vie Extresordinaire, ils passent pour des Manitous C’est-à-dire pour des Genie ou des personnes de Consequence.

[They are summoned to the Councils, and nothing can be decided without their advice. Finally, through their profession of leading an Extraordinary life, they pass for Manitous,— That is to say, for Spirits,— or persons of Consequence.]¹²⁶

The role of the *ic8e8ita*, therefore, is an aspect of the 17th century Illinois legal culture that is obscure. The above quotation indicates that it is possible that they could have held a position of influence on certain legal questions. It could also be that their special status meant that they were not directly involved in such issues.

This provides an overview of Illinois history and culture up to the beginning of the 18th century, which is when Illinois jurisprudences begin to be found in French sources. As much of their Oral Tradition has been lost, these are the sources from which a picture of their legal culture at this time must be drawn. Before exploring the extent to which this can be ascertained with the aid of linguistic sources, it will be necessary to consider the conceptual barriers that are thrown up between different languages and

¹²⁴ LB, 45.

¹²⁵ LG, 300:6. Note that the etymology of this word bears further research, beyond the scope of the current study.

¹²⁶ JR, vol. 59, pp. 129–30.

cultures. The question remains to what extent can one move from looking through a glass, darkly, to being face to face with a legal culture separate from us by three hundred years?

CHAPTER 3

JURISPRACTICES AND LAW

«Kikint8ragane»
parole observance loi
[words, speaking; observances, laws]

LeBoullenger Dictionary¹

Now that both the corpus of primary sources and the historical context have been covered, the central theme of this study can be addressed: namely the legal culture of the Illinois in the late 17th and early 18th centuries. This chapter will consider how the Miami-Illinois–and–French dictionaries can be used as historical sources in their own right and can allow the legal philosophy of the Illinois in the 18th century to be seen, if obliquely. By comparing similar words or morphemes in the dictionaries it is possible to conduct an internal analysis of particular concepts. Here, the concept of law will be addressed, and an anthropological perspective will be adopted in conjunction with the linguistic analysis. Before establishing a definition of law that can be applied both to the French and Illinois practice in this period, it is necessary to circumscribe what is meant by a concept and to what extent these are applicable across cultures. For this, some of the ideas presented by the philosopher Ludwig Wittgenstein will be explored as his reflections on language are of particular interest for this study. Following this, the work of the anthropologist and legal scholar Leopold Pospíšil will be taken under consideration to provide a framework for some of the legal concepts used in this study. Law, in Pospíšil’s analysis, is the product of interactions between the customs of a society and decisions made by individuals with

¹ LB, 314:56.

political influence. It is a dynamic process, though one that is constrained by traditions, power structures, and economic factors. This approach provides a view of law that can be applied both to societies with an Oral Legal Tradition and those with a written one. Following this overview, the Miami-Illinois–and–French dictionaries and other selected primary sources will be used to map the Illinois concept of law, or rather the jurisprudences preserved in the sources that correspond to the term *droit* in French. This, of course, does not directly correlate to European conceptions of law as the realities of Aboriginal and European legal cultures were vastly different. However, there are enough family resemblances to provide an understanding of how the Illinois conceived of law.

Translating concepts

Before considering how the Illinois may have conceived of law, it is necessary to provide a definition of this concept that can be applied to both French and Illinois societies. Indeed, before attempting to define this term, it is important to reflect on what is meant by a concept and to what extent these can be translated between languages and societies with very different political and social structures. While etymology falls under the heading of linguistics, the ideas that lie behind language fall into the realm of philosophy: concepts have been studied since antiquity and form an integral part of philosophical enquiry. It is therefore natural to look to philosophers for guidance on this. However, as this is a historical study, rather than one on philosophy, a broad overview of the different perspectives on concepts is not required. Rather, a few of Wittgenstein's reflections on the philosophy of language have been used to explore some key ideas connected to this thesis as they fit well with the nature of the material studied. Wittgenstein has the particular distinction of having profoundly impacted the field of philosophy twice

during the 20th century. His *Tractatus Logico-Philosophicus* (1921) was an attempt to understand the fundamental principles that lay between human experience, the communication of ideas, and the logic that underlies this. In this work, he focused on the idea of concepts forming a picture in the mind, noting that “We make ourselves pictures of facts,” and “The logic picture of facts is the thought.”² As an expression of the position of concepts in the thought process this is interesting. The concept, as it is held in the mind, is a picture of reality. Often concrete concepts can be intimately tied to tangible objects, and therefore a word that can summon clear images to mind. Concrete concepts are relatively straightforward to translate, provided that the culture of the L₁ in question has similar referents to the concept. When no such commonality exists, loan words may be adopted, such as moose, opossum or tomahawk taken into English from Algonquian languages. Of course new words can also be created or existing ones adapted to a new reality, such as the French *casse tête* [literally “head breaker”] for the war club, the classic weapon of the *Pays d’en Haut*, given in Miami-Illinois as ⟨Pacamagane⟩.³

Each individual may have a slightly different picture, based on their experiences, on which their understanding of a concept is based. Here, as well, the “picture” can be understood as a memory of a texture, feel or taste as well as an image. Within a homogenous culture, where experiences are similar, one can expect a high level of conformity in how concepts are perceived. Indeed, the process of learning and using a language will lead to the establishment of a common understanding of the terms used, albeit one that changes with time. When considering the translation of terms between

² Ludwig Wittgenstein, *Tractatus Logico-Philosophicus*, London, Routledge & Kegan Paul, 1955, pp. 39 and 43, these are points 2.13 and 3, respectively.

³ LG, 409:34; LB, 120:48.

languages, the idea of concepts as pictures of the facts becomes problematic, insofar as these can be quite different from one culture to another. Different cultural experiences will lead to understandings of similar concepts that diverge, sometimes significantly. This is particularly true of the type of abstract concept considered in this research. These are more difficult to translate, particularly when there are fundamental economic, geographical, political or social differences between societies. Take, for instance, the problems faced by the French in describing the hierarchy of European power structures. A certain level of centralization of power had existed at Cahokia before the 14th century, but this belonged to another period and language, as Miami-Illinois appears to have been introduced from the East.⁴ Illinois Chiefs did not possess coercive power, a central principle of the French understanding of leadership in the 18th century. Consider the entry for <Akima8a> in the Largillier-Gravier Dictionary, for which the gloss is “chef capitaine, seigneur, duc, Roy Empereur etc. [leader, chief, captain, lord, duke, king, emperor, etc.]” and the related term <akima8i8ni>, “Commendement, Empire, puissance [leadership, empire, power].”⁵ While <Akima8a> could be a fair translation of leader, chief or captain, it is a stand-in for lord, duke, king, and emperor, concepts for which the Miami-Illinois had no equivalent. Similarly, before their contact with the French, the Illinois had no experience of empire, hence the expansion of an existing term to cover this concept. It is interesting to note that the Abenaki word for king is *kinjames* (pronounced kin-dza-mes), adapted from the English “King James.”⁶ Situated on the Atlantic seaboard, the Abenakis had a much

⁴ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, p. 19; Robert Michael Morrissey, “The Power of the Ecotone: Bison, Slavery, and the Rise and Fall of the Grand Village of the Kaskaskia,” *art. cit.*

⁵ LG, 25:9 and 10.

⁶ Monique Nolett-Ille, *Vocabulaire Français–Abénakis*, *op. cit.*, p. 43; Monique Nolett-Ille, *Initiation à la grammaire Abénakise*, Odanak, Author, 2006, p. i.

longer exposure to the concept of monarchy than the Illinois, who do not appear to have developed a specific term for this idea.

Even within a language, different understandings of concepts can lead to difficulties. As a case in point, one can consider a choice of terminology in Robert M. Morrissey's *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois country* (2015). Here the Illinois's westward migrations is presented as being one of invasion and colonization:

The Illinois had moved to the borderlands, colonizing and taking advantage of new possibilities to build power based on bison hunting and slavery. Adapting themselves to the new ecological opportunities, they also adapted culturally, assimilating many aspects of the Siouan peoples whom they replaced and incorporated in these borderlands.⁷

Certainly, there is evidence to support the idea that the Miami-Illinois speakers' movement into the Mississippi valley region generated conflict as well as the merging of cultures. However, the point here is not to question the facts of the case, which is best left to archaeologists, but to consider the use of the term colonization. Whether one agrees with this position depends on the definition given to this concept. If one considers that colonization involves an expansion from an established base, or metropole, which applies to the French colonies in North America then this term cannot apply. The Illinois's westward migrations lacked the hegemonizing element that comes from a cultural, economic, and political relationship to a metropole. Of course, Morrissey has employed the term with a somewhat different, and much broader, definition.⁸ Which of the definitions of colonization is retained depends on wider usage, as concepts change in time

⁷ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, p. 38.

⁸ The choice of definition is not arbitrary, however. By choosing to use the term colonization to describe the expansion of the Illinois, Morrissey creates the need for another term to describe the colonial empires of Britain, France and Spain in this region. As he does not produce an alternative nomenclature, it is advisable to reject his assertion.

with language. When considering the historic use of concepts in other languages these type of differences need to be addressed. The idea of a concept as being a picture of the facts is constraining, as terms can simultaneously have multiple and varied meanings.

The question, then, is how to approach, and analyse, such abstract concepts. Here it is useful to consider some of the ideas in Wittgenstein's later work, in which he considered how problems of philosophy could be connected to problems of language. In his *Philosophical Investigations* (1953), he rejected the view, set out in the *Tractatus* that "that language has a unique discoverable essence, a single underlying logic, which can be explained by means of a structure-revealing analysis of language and the world and a description of the relation – the 'picturing' relation – between them."⁹ As a biographer of Wittgenstein has put it, in the *Investigations* he maintained that "there is not *one* 'logic of language', but many":

[...] language has no single essence, but is a vast collection of different practices each with its own logic. Meaning does not consist in the denoting relation between words and things or in a picturing relation between propositions and facts; rather, the meaning of an expression is its *use* in the multiplicity of practices which go to make up language.¹⁰

When considering concepts, the difference between these two positions appears to be, at root, that between the individual understanding of an idea, which can be described as a picture of certain facts (albeit one that changes over time), and concepts being expressed in the collective use of language. In a well-known passage, Wittgenstein explored the various uses of the concept of games:

Consider for example the proceedings we call "games". I mean board-games, card-games, ball-games, Olympic games, and so on. What is common to them all? – Don't say: "there must be something in common, or they would not be called 'games' " – but look and see whether there is anything common to all. – for if you look at them you will not see something that is common to all, but similarities, relationships, and a

⁹ A. C. Grayling, *Wittgenstein*, Oxford, Oxford University Press, 1988, p. 67.

¹⁰ *Ibid.* (italicization follows the original).

whole series of them at that [...] And the result of this examination is: we see a complicated network of similarities overlapping and criss-crossing: sometimes overall similarities, sometimes similarities of detail.¹¹

The points that are raised can apply to any concept, though the more abstract the notion the more possible variations that can fall under it. The question for this study is how to approach the translation of abstract concepts connected to the Illinois legal culture without obscuring their essence or imposing external (or modern) categories onto 18th century concepts. In his note 67, Wittgenstein provides an interesting reflection that can help here:

I can think of no better expression to characterize these similarities than “family resemblances”; for various resemblances between members of a family: build, features, colour of eyes, gait, temperament, etc. etc. overlap and criss-cross in the same way. – And I shall say: “games” form a family.¹²

These family resemblances are, according to his metaphor, made up of separate threads that are interwoven into a recognisable, yet differing, patterns. The important feature that can be drawn from the idea of a family relationship is that it permits concepts to be grouped based on resemblances without their necessarily being a shared single feature in the family. With this conceptual framework established, it is now possible to reflect on the role that linguistic sources can have in clarifying the key concepts of Illinois legal culture.

«Kikint8ragane» and *droit*

This idea of concepts being made up of different threads means that, to understand a concept, one needs to identify the key themes that underlie it within a given society. There need not be one essential thread around which a concept is built, nor does the fact

¹¹ Ludwig Wittgenstein, *Philosophische Untersuchungen–Philosophical investigations*, translated by G. E. M. Anscombe, Oxford, Basil Blackwell, 1953, pp. 31–32 (note 66).

¹² Ludwig Wittgenstein, *Philosophische Untersuchungen–Philosophical investigations*, *op. cit.*, p. 32 (note 67).

that certain threads are missing mean that the concept need necessarily to be removed from a family. Different examples of a concept, or referents, can be seen as tapestries woven of similar threads depicting similar, though individual, patterns. In order to investigate the central theme of this study, the Illinois legal culture, it is necessary to establish what is meant by law, at least as far as this study is concerned. It will also be necessary to circumscribe, within this, the elements of 18th-century Illinois jurispractice that can be identified in the historical sources. In order to define law with these objectives in mind, it is necessary to adopt a broad definition, one that is not tethered to the legal traditions of Western Europe. The Illinois did not have a written legal code in the 18th century, which means their laws were transmitted orally. This would have occurred through what can be called the triptych of values, principles and rules.¹³ While some of these would have been passed down explicitly, others would have been learnt or absorbed through observation. Much of this Oral Tradition has not been recorded, which leaves three principal sources of our knowledge of the historical legal culture of the Illinois: the speeches of Illinois Chiefs on this subject, primarily from 1723; the record of the application of legal principles that can be seen in the colonial sources; and, the Miami-Illinois–and–French dictionaries. The caveat, and an important one, is that these are all recorded by outsiders who had a very different understanding of law compared to the Illinois. Because of this, it is necessary to take a view of law that can be applied to both French and Illinois societies in this period.

¹³ Ghislain Otis et al., “L’étude des systèmes juridiques autochtones et ses enjeux,” in *Contributions à l’étude des systèmes juridiques autochtones et coutumiers*, Québec, Presses de l’Université Laval, 2018, p. 10.

It is important here to highlight the fact that the word “law” in English embodies two intertwined concepts that are separated in French, as well as many other languages. In French the distinction is between *droit* (or *ius* in Latin), that is “the principles implied in precedents or rules” and *loi* (or *lex*) “an abstract rule.”¹⁴ This is not the case in English, in which the law encompasses both. The word “right,” from the Old English *riht*, also intersects with the French *droit*, though its use to indicate an entitlement (“a right”) means it can no longer be used in the sense of “law proper.”¹⁵ Here it is primarily under this sense that the word is being used. The historical record does not contain a list of abstract rules, such as one could find in a law code, for the Illinois in the 18th century. Indeed, it is unlikely that they expressed their rules in this fashion. What we do have are the records of decisions made in certain cases, and occasionally the principles behind these, that is to say elements of their jurisprudence. It is not possible to ascertain the abstract rules underlying such legal principles to any degree of certainty, in part because of the dynamic nature of law. However, it is possible to discern some of the various threads, or attributes, that made up their legal culture.

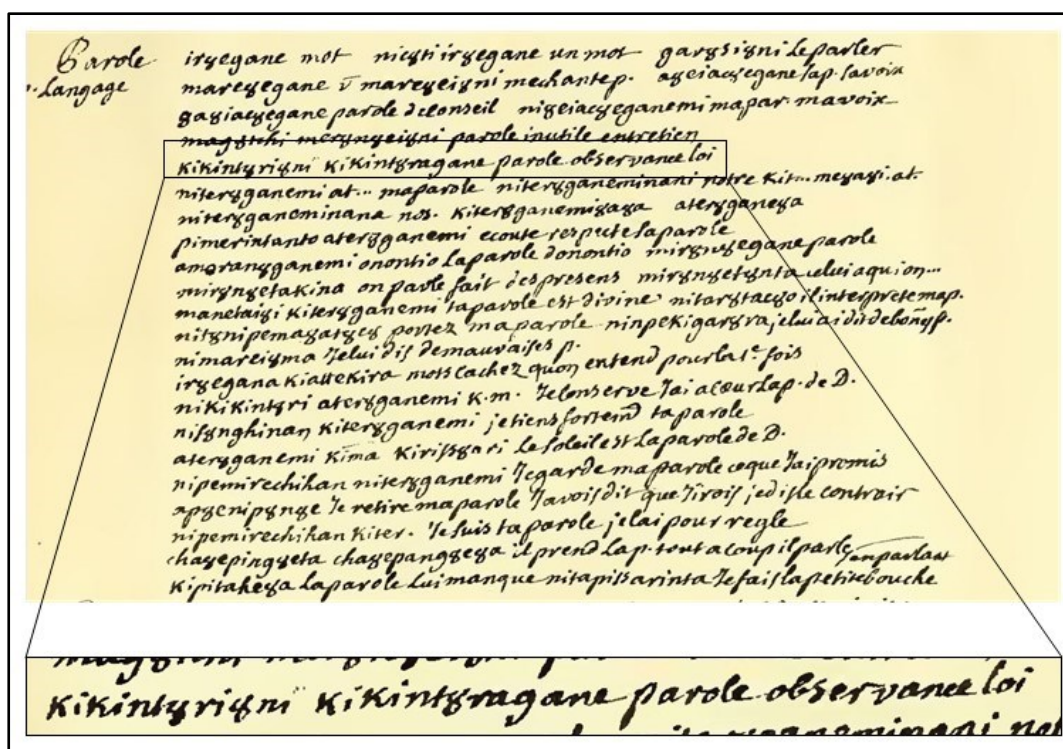
Turning now to how these terms were understood in the *Pays des Illinois* in the 18th century, one has to consider two societies with very different conceptions of law – both of which differ in significant ways from the modern English meaning of law. In the Miami-Illinois–and–French dictionaries the word *droit*, in its meaning of a right, only appears rarely in the French gloss. Largillier provides the gloss for the entry <nikitchiha>

¹⁴ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, New York, Harper & Row, 1971, pp. 2 and 35.

¹⁵ Variations on pronunciation are found, for example the Kentish form *reoht*, Anglian form *reht*, and the Older Scots *richt*. The *Oxford English Dictionary* (2000) has been used as the reference for questions of English etymology.

as “je luy cede mon droit, je me prive de cela pour son amour; prefere l’un a l’autre [I yield my right to him/her, I deny myself that for his/her love, prefer one to the other].”¹⁶ The same word is defined by LeBoullenger as “Je me p[rive] pour lui [I deprive myself for him].”¹⁷ Pinet use the word *droit* in terms of the rights of seniority in a family «nikikiðapaharigðiðnemi» and «nitasssensimaiðnemi» being both translated as “mon droit d’aisnesse [my rights as eldest].”¹⁸ These do not bring us any closer to understanding the Illinois conception of law. However, the Illinois word quoted at the beginning of this chapter, «Kikintðragane», is more illustrative. It is found in a number of places in the Miami-Illinois–and–French dictionaries and was recorded by LeBoullenger as “parole observance loi [word, speaking; observance; law]” (see Figure 3.1).¹⁹

Figure 3.1. Entry for «Kikintðragane» in LeBoullenger²⁰



¹⁶ LG, 227:10.

¹⁷ LB, 344:76.

¹⁸ PN, 25:28.

¹⁹ LB, 314:56.

²⁰ LB, 314:56 (public domain, source archive.org).

The modern spelling of the word is *kihkintoolaakani* and translates as “sign, guide, doctrine, observance.” The suffix <–agane> or *–aakan* indicates an instrument and the morpheme <kikint8r–> or *kihkintooli–* translates as “notice or discern.”²¹ By reviewing the terms in the Miami-Illinois–and–French dictionaries which share this morpheme, one can build up a picture of the family of concepts to which this term belongs.

Just as the term *droit* in French can be used to indicate a range of ideas including “a legal right,” “right-handed,” “straight,” and “law,” phrases with the morpheme <kikint8r–> have a variety of meanings. These range from <Kikint8ri8ni>, given as “coutume [custom],” to <kikint8ragane>, which has “but blanc [bullseye]” as its gloss, and encompass <kikint8riro> for “remarque [Note! Notice!].”²² It is clear that beyond its more prosaic meaning, the term held a deeper significance for the Illinois. This is partly to be seen from its association with the legal terms *coutume* and *loi*, but also that the Jesuits adopted it as a religious term. They used <kit8ekikint8ragane> for “L euchariste [the Eucharist]” and <kikint8ragane> for “Le St. Sacremt [the Holy (or Blessed) Sacrament (my translation)],” one of the most sacred concepts they had to render into Miami-Illinois.²³ The entries for the term <kikint8ragane> are presented in Table 3.1.

²¹ The modern spelling and analysis of this term is provided by the ILDA under LB, 314:56.

²² LG, 200:13; LB, 114:29 and 180:1 respectively. The French term “but blanc” refers to the white circle at the centre of a butt used in archery or rifle practice.

²³ LB, 212:30 and 360:43. The <kit8e–> preceding the first term is given as “excellent richemt [excellent, richly]” in LB, 212:63 and is associated elsewhere in the Miami-Illinois–and–French dictionaries to indicate precious things.

Table 3.1. Entries for <kikint8ragane>²⁴

Nº	Miami-Illinois manuscript	French or Latin gloss	English translation	Source
1	kikint8ragane	marque signe d'une chose cachee	mark, sign of a hidden thing	LG, 200:8
2	kikint8ragane	but blanc	bullseye	PN, 85:45
3	kikint8ragane	but blanc	bullseye	LB, 114:29
4	kikint8ragane	marque symbole	mark, symbol	LB, 284:53
5	kikint8ragane	la mire d un fusil	the sight of a gun	LB, 292:33
6	kikint8ragane	observance regle de vie	observance, rule of life	LB, 302:83
7	kikint8ragane	parole observance loi	word, speaking; observance; law	LB, 314:56
8	kikint8ragane	doctrine	doctrine	LB, 340:78
9	kikint8ragane	Le St. Sacrement	The Blessed Sacrament (my translation)	LB, 360:43
10	kikint8ragane	La marque pour faire connoitre qq. chose cachee	The mark to show something hidden	LB, 382:20

By taking these and comparing them with the wider set of terms connected to the morpheme <kikint8r→ (see Appendix A) one can establish three conceptual families connected to this term: firstly communication, including the ideas of and *marque* [mark], *parole* [word], and *symbole* [symbol].²⁵ Secondly, law, with the terms *coutume* [custom], *loi* [law], and *observance* [observance].²⁶ This latter term is given in the gloss as “regle de vie [rule of life]” and “doctrine [doctrine],” which is why it is included here.²⁷ These

²⁴ Entries in tables are arranged in the order in which they are found in the Miami-Illinois–and–French dictionaries, and chronologically according to the date of each manuscript: Largillier’s first, Pinet’s second and LeBoullenger’s third.

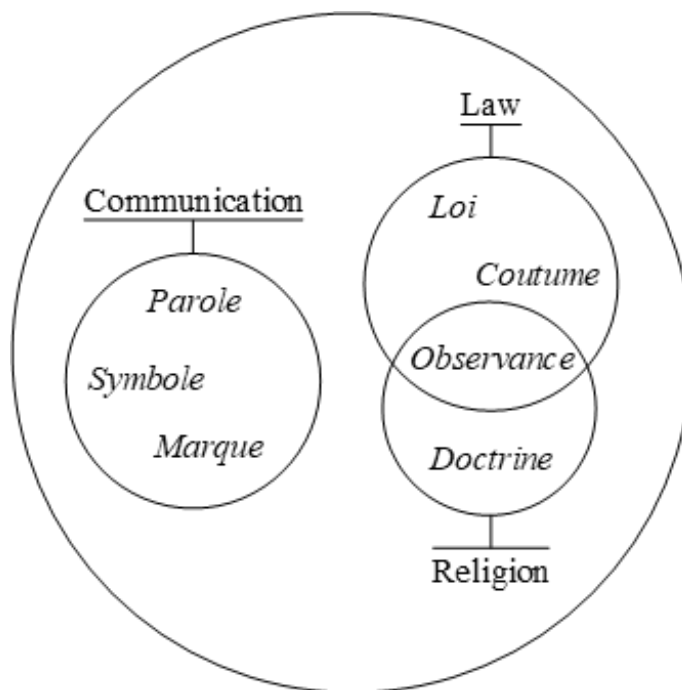
²⁵ In Table 3.1, the entries associated with *marque* are numbers 1, 2, 21, 22, 23, 25 and 40; *parole* 28, 30, 31 and 32; and *symbole* 10, 21, 22, and 23.

²⁶ The entry associated with *coutume* is number 6; those for *loi* 30 and 31; and *observance* 4, 29, 30 and 31.

²⁷ LB, 302:83 and 340:78.

can be situated on the borders of law and religion, the third conceptual family found here, though this association was probably introduced by the Jesuits.²⁸ In Model 3.1 a diagram is provided to summarize these families.

Model 3.1. Conceptual families connected to the morpheme <kikint8r→>



This provides a perspective on the Illinois concept of law, albeit a partial one. It can be termed an internal form of conceptual analysis as regards the Miami-Illinois–and–French dictionaries. That is to say, it is a method in which key conceptual families can be identified internally in these documents, at least as they were interpreted by the Jesuits. There are, of course, questions connected to some of these concepts. It is not clear, from the dictionaries alone, to what extent the ideas of law and religion overlap. These could be concepts with a high degree of correspondence in Illinois society, or the connection may have been overemphasized by the Jesuits looking to find suitable translations for the

²⁸ Entries associated with *doctrine* are numbers 18, 19, 26, 32, 33, 34 and 39.

abstract notion of the Eucharist. In order to explore these ideas in greater length, it will be necessary to perform external analyses, by connecting these concepts with other historical sources.

It is also useful to undertake the same exercise for the French concept of *droit*, to provide a contrast as well as to better understand the lens through which the French authors of the primary source material saw this. As the analysis of the Illinois term <kikint8ragane> is drawn from Miami-Illinois–and–French dictionaries, it is pertinent to look to a French–English dictionary to circumscribe the idea of *droit*. This is in part because this thesis is written in English, and partly to avoid providing an analysis of the concept that is much too deep. While there are numerous treatises on law written in French from this period, including classics such as Montesquieu’s *De l’esprit des loix* (1748), the primary sources were not written by men trained in law. As such, a general appraisal is preferable. For this, the *Dictionnaire Royal François et Anglois* (1702) has been selected as it is contemporary with the Miami-Illinois–and–French dictionaries. Herein one finds the following definitions for the word *droit*, in its relation to justice:

Droit, S[ubstantif] M[asculin] (Equité, Justice, Raison) Equity, Right and Reason, Justice.

Droit, (Loy écrite *ou* non écrite).

Le Droit des Gens, *the Laws of Nations*.

Le Droit Civil, Canon, & Coutumier, Civil, *Canon, and Common Law*.

Droit, (Autorité, Pouvoir) *Right, Power, Authority*.

Droit, (Prerogative) Right, Prerogative, Privilege.

Droit, (Pretension fondée sur quelque Titre) *Right, Claim, Title*.

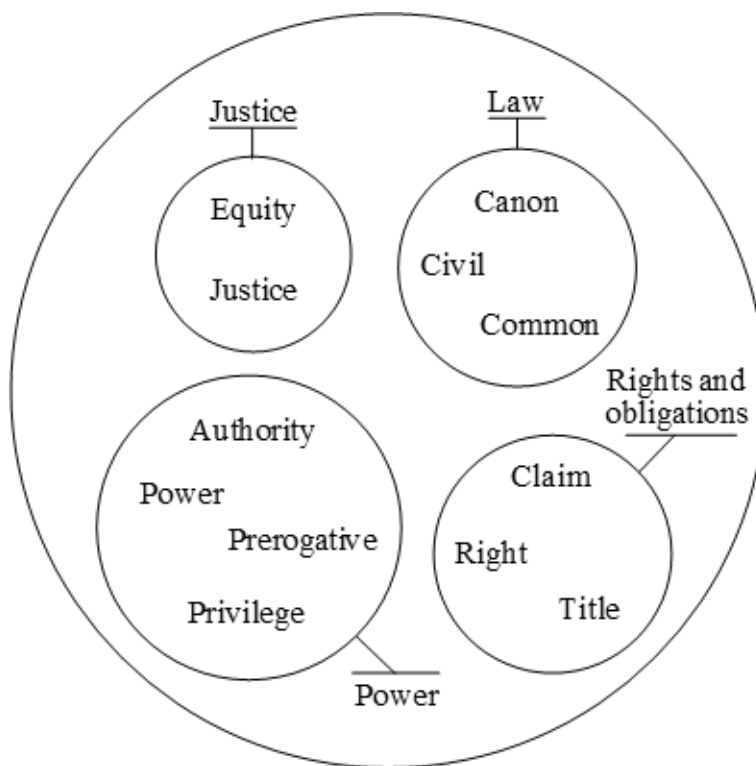
Droit, (Salaire ordonné pour certaines Vacations) *Fee*.

Droit, (Imposition établie pour les besoins de l’État) *Duty, Tax, Custom*.

A bon droit, Adv[erbe] (avec raison) not without a Cause, justly, deservedly.²⁹

The concept *droit* bundles together a whole set of related concepts, which can be represented in a similar diagram to that used for <kikint8ragane> (see Model 3.2).

Model 3.2. Conceptual families connected to the term *droit*



Here one can identify four families of concepts: firstly, justice, embodying this term and equity. Secondly, concepts connected to types of law: canon, civil, and common, the latter term being connected to the concept of *coutume* in French. Thirdly, one finds rights and obligations, notably in the ideas of claim, right and title. Finally, ideas connected to power: authority, power, prerogative, and privilege.

The elements of French legal culture connected to justice and law can be seen as having some strong correspondences with Illinois conceptions, whereas those concerning

²⁹ Boyer, ed., *art. cit.* (italicization follows the original).

power and rights are much weaker (though not entirely absent). This comparison helps keep in mind the differences in legal culture and interpretation through which the historian has to sift in order to try to construct a portrait of Indigenous legal cultures.

The establishment of models also allows for an initial appraisal of the concepts connected to legal culture held within linguistic sources. It provides a start to an investigation into a wider set of primary source material. However, before the connections can be made between the Miami-Illinois–and–French dictionaries and the broader corpus of sources, it is necessary to establish an analytical framework.

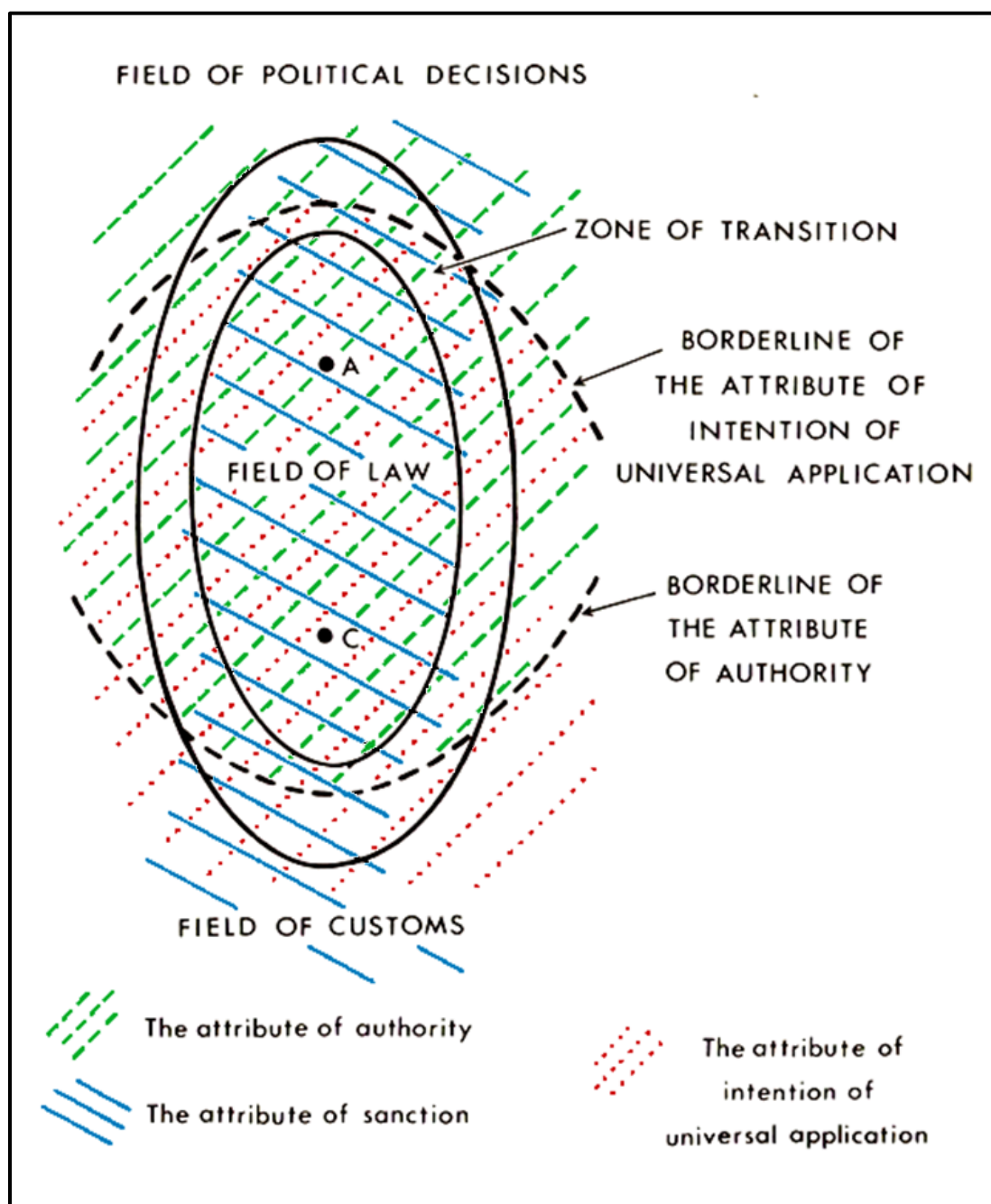
The tapestry of law

Now that the term *ᑭᑭᑎᑲᑲᑲᑲᑲᑲ* has been considered to the extent that the Miami-Illinois–and–French dictionaries permit, the concept of law in its broader meaning can be analysed. In the 17th and 18th centuries the Illinois had no written laws, but rather relied on oral forms to preserve and transmit their law. To better understand this, it is useful to turn to anthropological studies of more recent societies operating under these same principles. In the first half of the 20th century there was a particular scholarly interest in the laws of what were then termed “primitive societies,” that is to say societies which stood apart from the capitalist and state model that has come to dominate the globe.³⁰ This coincided with imperialist attitudes and structures, the latter allowing scholars to reach and study societies that were just beginning to enter into sustained contact with the larger networks of capitalism and state. While some of their attitudes and approaches were

³⁰ The term “primitive” is laden with the prejudices of the time and – even if the term is no longer used by scholars in this sense – these prejudices still remain current. This said, it should not be assumed that those who used it were necessarily dismissive of the societies they studied. The importance of the concept of “primitive communism” in Marxist thought means that some who used it saw much to learn from these societies.

unethical or questionable, these studies also provided a wealth of information on the legal systems of societies not bound by a centralizing authority. One such scholar, Leopold Pospíšil provided a very useful analysis of the concept of law in *Anthropology of Law: A Comparative Theory* (1971). His theories are based on a wide range of research into legal systems in Europe, North America, and Papua New Guinea. As such, his approach to the concept of law embraces both that of the French and Illinois in the 18th century. Pospíšil identified four attributes that, in his view, need to “coexist in a social phenomenon in order to identify it as law.”³¹ He identifies these essential attributes as authority, the intention of universal application, *obligatio*, and sanction. In Figure 3.2 one can see Pospíšil’s schematic rendering of the overlap of these attributes, which – to build on Wittgenstein’s analogy of concepts being made out of entwined threads – can be seen as the weft and warp that produces the fabric of the concept.

³¹ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 43.

Figure 3.2. Attributes of law³²

Leopold Pospíšil's diagram illustrating the attributes of law. Colour has been added to highlight the three attributes that are represented. This provides a visual representation of the analogy of the concept of law being tapestry made of different threads.

³² Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, op. cit., p. 77.

Pospíšil's work has, within the field of socio-legal studies, achieved the status of a classic, with his theory of legal levels being the aspect most often retained (though this is not a subject addressed in this study).³³ This said, it has also been relegated to the footnotes of works in the field, recognized but dated.³⁴ This study does not retain Pospíšil's work as a whole, but rather two important parts, the attributes of law mentioned above and his assessment of law as a dynamic phenomenon. Pospíšil studied and practiced law before embarking on his field research. This background in both the theoretical and empirical aspects of law can be seen as a weakness:

What this means for Pospíšil is that law is not first and foremost a set of relatively flexible rules for the settling of practical problems – as common law lawyers would be inclined to see it – but a conceptual system that must be internally logical, and “beautifully” so if at all possible. As we will see, Pospíšil's work, no matter what other significance it might have, always bears the imprint of this early predilection for a well-ordered logical structure.³⁵

For a study attempting to ascertain the fundamentals of Illinois legal culture in the 17th century, however, this can be seen as a strength. To achieve its aim, this work needs to systematically investigate abstract concepts and the patterns behind them traced. This cannot be done perfectly with the extant source material, but a logical coherent conceptual system tested against experience in societies with similar social structures to the Illinois is a good yardstick against which to begin measurement. Furthermore, adopting Wittgenstein's approach to concepts allows the theoretical components of Pospíšil's work to be seen as variables that can be found in different measure, making for a flexible approach to the concept of law. In this study of language and law, both scientific and

³³ Rebecca R. French, “Leopold J. Pospisil and the Anthropology of Law,” *Political and Legal Anthropology Review*, vol. 16, n° 2, 1993, pp. 6–7.

³⁴ Mark Ryan Goodale, “Leopold Pospisil,” *The Journal of Legal Pluralism and Unofficial Law*, vol. 30, n° 40, 1998, p. 123.

³⁵ *Ibid.*, p. 126.

Indigenous concepts need to be studied; as Pospíšil has noted, “Both types of concepts, those of the natives and the analytical concepts of science, are essential in the understanding of law, and as a matter of fact of any part of culture.”³⁶

The four attributes that have been identified above can now be evaluated in relation to Illinois legal culture. These will form the basis of a framework to map out the relations between concepts recorded in the Miami-Illinois–and–French dictionaries and Illinois jurisprudences found in historical sources.

The thread of authority

The first essential attribute is that of authority, used here to indicate individuals who are recognized in their society as being arbitrators in disputes. As Pospíšil indicated:

A decision, to be legally relevant, or in other words, to effect social control, must either be accepted as a solution by the parties to a dispute or, if they resist, be forced upon them. Such a decision, of necessity, is passed by an individual, or group of individuals, who can either persuade the litigants to comply or who possess power over enforcement agents or the group membership in general to compel them to execute the verdict, judgment, or informal decision even over protests and resistance of either or both parties to the dispute.³⁷

Here authority can be represented by an individual or a group. For the French in the *Pays des Illinois* it was the officers who principally filled this role, assisted by a notary and the soldiers under their command in order to record and enforce French justice. Not all legal decisions were enforced by the officers, of course. In September 1723, for example, Pierre Faffard submitted a complaint that his Illinois wife, Margueritte Anskekae, had committed adultery. This led to the court at Fort de Chartres recognizing this as a crime and permitting

³⁶ Leopold Pospisil, “Corrections of a Reappraisal of Leopold Pospisil,” *The Journal of Legal Pluralism and Unofficial Law*, vol. 33, n° 46, 2001, p. 117.

³⁷ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 44.

her to be confined in a place of her husband's choosing.³⁸ However, the court did not enforce this, and only indicated that Faffard could do so if he was able. Here is a further element to Pospíšil description, which is that the authority in question does not need to necessarily enforce the decision directly or through their agents, provided that its application cannot be opposed (and that such an opposition would be open to sanction). For Pospíšil "the fact that the decisions and advice of an authority are followed by the rest of the members of the group constitutes the only important criterion of 'authority'."³⁹ This broadens the notion of authority beyond those who wield visible coercive power and allows those whose roles enable them to persuade members of their society. In the *Pays des Illinois*, members of the clergy, such as the Jesuits, can be considered as authorities – though their influence over questions of law was limited.

Following this, it is necessary to identify who were considered authorities in Illinois society in the 17th and 18th centuries. Two glosses recorded in the early pages of the Largillier manuscript were mentioned above: <Akima8a> "chef capitaine, seigneur, duc, Roy, Empereur &c [leader, chief, captain, lord, duke, king, emperor, etc]" and <akima8i8ni> "Commendement, Empire, puissance [leadership, empire, power]."⁴⁰ While Illinois Chiefs wielded significant authority, they did not hold the coercive power associated with dukes, kings or emperors. The quotation from Father Gabriel Marest, mentioned in Chapter 2, is worth recalling here: "ces Chefs n'ont nulle autorité : s'ils usaient de menaces, loin de se faire craindre, ils se verraient aussitôt abandonnés de ceux mêmes qui les auraient choisis pour Chefs [the Chiefs have no authority; if they should

³⁸ KM, 23:6:2:1; Margaret Kimball Brown and Lawrie Cena Dean, *The Village of Chartres in colonial Illinois, 1720–1765*, Baton Rouge (La), Provincial Press, 2010 (1977), pp. 813–14 (K-349).

³⁹ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 47.

⁴⁰ LG, 25:9.

use threats, far from making themselves feared, they would see themselves abandoned by the very men who had chosen them for Chiefs].”⁴¹ For Marest, the ideas of authority and threat were intimately linked, as they were in Early Modern French society as a whole. He appears not to have been able to separate these two threads in his mind. This is not a view that is found in all the French records, however. For example, in 1671 Father Claude Dablon’s wrote in glowing terms of an Illinois Chief, whose name was not noted:

On ne pourra pas aisément croire la civilité, les caresses, & les témoignages d’affection, que nous ont fait paroistre ces peuples; & sur tout le chef de cette Nation des Illinois, qui est respecté dans sa cabane, comme seroit un Prince dans son Palais: il y estoit toujours environné des plus considerable du Bourg, que nous pourrions Presque appeller des courtisans, tant ils estoient dans une posture honneste, pleine de deference, y gardant toujours un silence respectueux, pour faire paroistre l’estime qu’ils faisoient de sa personne, & de nous.

[These people showed us such politeness, caresses, and evidences of affection as will scarcely be credited; and this is especially true of the chief of that Illinois Nation, who is respected in his cabin as a Prince would be in his Palace. He was ever surrounded by the leading men of the Village, whom we might almost call courtiers, so becoming and deferential was their demeanour, and so respectful the silence which they never failed to observe as a mark of their esteem for his person and for us.]⁴²

His language is evocative of the courts of Europe and aimed at convincing his readership of the worthiness of the Illinois for conversion. Behind this, however, is a portrait of a man both embodying his society’s values of chieftainship and welcoming an important foreign delegation. Wealth and power were on display, as well as what appears to have been a healthy caution as to these guests:

C’estoit un assez grande Cabane, au milieu de laquelle il avoit mis ce qu’il avoit de plus précieux, pour nous y recevoir, & avoit pris place vis-à-vis de nous, & n’en sortit presque jamais, tout le temps que nous y demeurâmes, comme pour nous faire honneur par sa presence, & ne pas perdre nostre compagnie, ny nos entretiens : mesme dans les ruës, & dans les autres Cabanes, quand nous y estions invitez pour manger, il

⁴¹ JR, vol. 66, pp. 218–20.

⁴² JR, vol. 55, pp. 209–211.

nous y accompagnait d'ordinaire ou bien nous faisoit escorter par quelques-uns de ses gens.

[It was a Cabin of considerable size, in the middle of which he had put his most precious possessions, in order to receive us there, and had taken his seat opposite us; and he hardly ever went out during our entire stay, as if to honor us with his presence, and not to lose out company or conversation. Even in the streets and in the other Cabins, when we were invited out to eat, he commonly attended us, or sent some of his people to escort us.]⁴³

Wealth, and largesse, appear to have been key attributes of a Chief and an element of his authority, as Marest noted: “ils ne s’attirent de la considération et du respect, qu’autant qu’ils ont, comme on parle ici, de quoi faire chaudière, c’est-à-dire, de quoi donner des festins à ceux qui leur obéissent. [They gain consideration and respect only while they have, as is said here, wherewith to fill the kettle, – that is to say, wherewith to make feasts for those who are obedient to them].”⁴⁴ This may seem similar to the European values of the time, where rank and capital were becoming increasingly entwined. However, there is a fundamental difference, such wealth for the Illinois was for distribution and, as such, it was largesse and not accumulation that was a mark of authority. This can be seen in an account given by the Myaamian leader Gabriel Godfroy (who was also known as *waapanaakikaapwa*) in the early 1900s in which he described the origins of the term *kaapia*:

mihtohseeniaki neetonamaho-waaci, kiikoo eenkihtoowaaci, nkoti alenia meemaaciki. “nihsweehikolo” iilaaciki, “kaapeewilo.” oonaana alenia “kaapia” iilinta.

[When the people went hunting, whenever they killed anything, they chose one man: “Divide it up,” they tell him, “divide equally.” This man is called a “kaapia.”]⁴⁵

⁴³ JR, vol. 55, pp. 210–11

⁴⁴ JR, vol. 66, pp. 218–20.

⁴⁵ David J. Costa, *myaamia neehi peewaalia aacimoona neehi aalhsoohkaana: Myaamia and Peoria Narratives and Winter Stories*, translated by David J. Costa, Oxford (Oh.), Myaamia Project at Miami University, 2010, pp. 66–67.

The principle of equal division was a deeply rooted value in Illinois society and fell under the authority of the Chiefs, as can be seen in the following account from Nicolas Perrot:

Le village campe ensuite dans l'endroit le plus commode et le plus proche de celui où s'est fait le carnage. Ce camp estant establi, on partage entre les familles les bestes qui ont esté tuées en cette chasse. Les unes en ont plus, les autres moins, à proportion qu'elles sont nombreuses. Mais tout se distribue par la voix des chefs avec beaucoup d'équité et de justice. Chacune de ces familles escorches les bestes qui leur sont escheües en partage, et l'on reste dans le camp jusqu'à ce que toutes les viandes soient bien seiches.

[The people of the village encamp in the place most convenient, and nearest to the scene of the carnage. This camp being established, the game is divided among the families, each receiving what its hunters have slain; some have more and others less, according to the number of people in each; but the whole is distributed by decisions of the chiefs, with great equity and justice. Each of these families strips the hides from the animals that fall to its share, and the people remain in the camp until all their store of meat is thoroughly dried.]⁴⁶

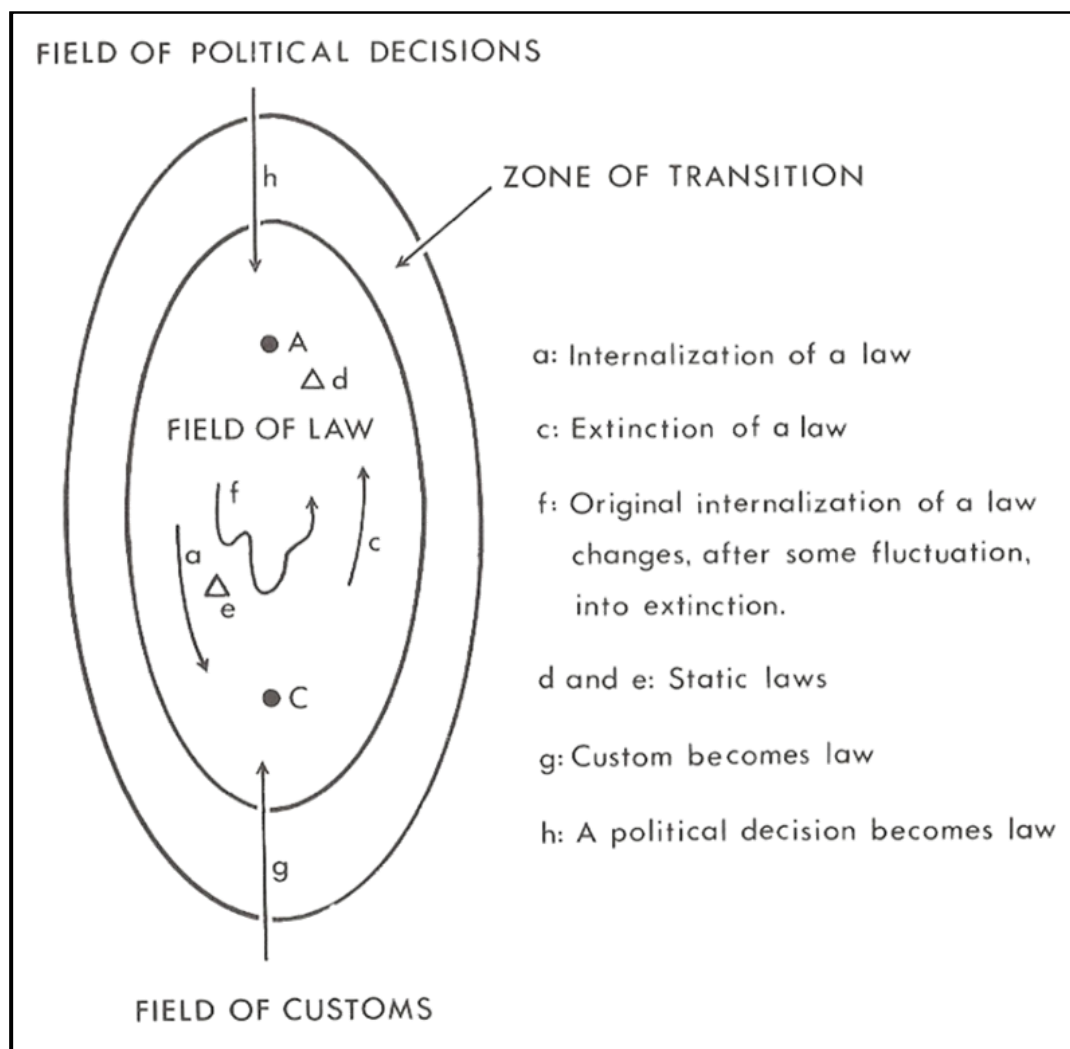
The two attributes of authority and custom are present here. The French authors do not record any sanctions mentioned for a failure to comply to this principle, which means that it cannot be classified as a law with full certainty. However, it is probably safe to assume that it was such, as an unequal distribution would have certainly led to serious disapprobation. Indeed, it is probably for this reason that this rule was not broken, at least to the extent that it would have found its way into the colonial sources.

Such equal division was not reserved to the main hunt, but was applied in other circumstances, as this excerpt from Marquette's diary illustrates: "chachag8essi8 Illinois fort considere parmy sa nation, a raison en partie qu il se mesle des affaires de la traitte arrive la nuit avec un chevreux sur son dos, dont il nous fait part [Chachagwessiou, an Illinois greatly esteemed among his nation, partly because he engages in the fur trade,

⁴⁶ Nicolas Perrot, *Mémoire sur les moeurs, coustumes et religion des sauvages de l'Amérique septentrionale*, *op. cit.*, p. 276; Nicolas Perrot, "Memoir on the Manners, Customs, and Religion of the Savages of North America," *art. cit.*, p. 124. Emma Helen Blair provided certain clarifications in her translation which have either been removed or incorporated into the quotations from this work as the original French is provided.

arrived at night with a deer on his back, of which he gave us a share.”⁴⁷ Chachag8essi8 was under no legal obligation to share with the French but did so due to his values. This is an example of a custom that is internalized and can help clarify the idea of the “zone of transition” in Pospíšil’s schematizations of the field of law (see Figure 3.3).

Figure 3.3. Legal dynamics⁴⁸



Pospíšil’s diagram illustrating the dynamic nature of law. Applied to the legal culture of the Illinois, the point ‘f’ can be seen as representing the changes to the punishment of female adultery between the 17th and 19th centuries (see Chapter 5). However, there is too little evidence on Illinois law before the late 17th century to be certain of this.

⁴⁷ JR, vol. 59, pp. 166–67. Chachag8essi8 is, incidentally, the first Illinois individual to be named in the French sources.

⁴⁸ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 195.

This zone includes cases that have some, but not all, the attributes of law. For example, a custom that is adhered to when there is no connected sanction. In such a case if the custom was broken it might incur disapproval from others, but nothing more.

This word *kaapia* is given as Kāūpeeau by Trowbridge and has the meaning of a Chief's attendant. He wrote of the Myaamian government structure that:

In case the death of a chief occurs during the minority of the lawful successor, the administration of the government devolves upon the Kāūpeeau [...] of the deceased, who executes the commission until the young chief assumes the government; unless for good reasons, the other chiefs should remove him from authority, in which case one or more of their number discharge the duties of the young chief during the interregnum.⁴⁹

This highlights the hereditary nature of chieftainship, which can also be observed amongst the Illinois. Indeed, names of Chiefs were passed down in their families, so one finds references to the different Chiefs of the same name at different moments in the historical record. It should be noted that leadership roles in the *Pays d'en Haut* were often divided between Civil and War Chiefs, with hereditary leaders occupying the former roles and leadership in war falling on men who could command the loyalty of the warriors, though the two roles were not mutually exclusive. The 17th and 18th century sources do not make clear distinctions between these roles concerning the Illinois. However it can be assumed that Civil Chiefs played a more important role as legal authorities. It is probable that War Chiefs had a role in enforcing sanctions. Amongst the Myaamias, Trowbridge also noted that women could be Chiefs, both of military and of civil affairs:

There are also female chiefs, both of war and of the village. They derive their powers by descent from the father who is a chief, the eldest daughter of each village and war chief is also a chief, or as the french say cheffress. The duties of these female chiefs are confined to a superintendence of the preparation of nation feasts, or that part of them which is usually committed to women, to a kind of curious examination or rather watching of the affairs of the village and the conduct of the

⁴⁹ TR, 27:5–13.

villagers, information of which they sometimes convey to the male chiefs, and to the collection and preparing of smoked skins, moccasins, awls, sinews, and other articles necessary to a war party for its convenience on the march, which they present to the leader for the benefit of the whole, before the departure of the warriors. And their power is very limited, being consequent upon their superior powers of persuasion and the general influence which as females they have over the men of the tribe.⁵⁰

Here the phrase “watching of the affairs of the village and the conduct of the villagers” indicates a role in maintaining the social order in conjunction with the male leaders. Though over a century separates the conversion of Marie Rouensa-8canic8e and Trowbridge’s account, we can see here that her conversion was probably particularly significant due to the role that she would have held as an authority amongst the Illinois. There was also a standard of behaviour expected of these Chiefs’ daughters, which can be seen in the gloss for the expression <8iresisi8a mareïam8itchi, kicankitchi, keiesc8etchi>: “elle est cruelle, querelleuse, point sage, Elle qui devoit estre douce, posée estant priante, fille de chef, elle qui a l’air doux [she is cruel, argumentative, not at all wise, well-behaved. She who should be gentle, calm, serene, praying, daughter of the Chief, she who has a sweet appearance].”⁵¹ There is also evidence of women taking on roles of leadership more generally connected to men. In November 1698, the missionary priest Jean-François Buisson de Saint-Cosme recorded that the party he was with had met a woman Chief:

Le 28^{me} nous débarquame a un village ou il y avoit en viront vingt Cabannes nous y visme La femme chef cette femme est fort considerable dans La Nation a cause de son Esprit et sa grande Liberallité et parce quayant bien des Enfans et des gendres, bons chasseurs, Elle fait souvent des festins qui est Le moyen destre bien tost considerable parmy Les sauvages et toutes leurs Nations.⁵²

[on the 28th we landed at a village consisting of about twenty cabins, where we saw the woman chief. This woman enjoys great repute in her nation, owing to her wit and her great liberality and because, as she has many sons and sons-in-law who are good hunters, she often gives feasts,

⁵⁰ Charles Christopher Trowbridge, *Meeārmear Traditions*, *op. cit.*, pp. 14–15.

⁵¹ LG, 387:1.

⁵² Jean-François Buisson de Saint-Cosme, “3^e lettre : Copie d’une lettre datée de la Rivière Arkansas, le 2 janvier 1699,” *art. cit.*, p. 60.

which is the way to acquire the esteem of the savages and of all their nations in a short time.]]⁵³

There is little else said on this count, so it is not possible to trace the extent of her power or responsibilities, though the leader of the expedition, Henri de Tonti, had already had dealings with her and held discussed events that had occurred two days previously at another village:

Monsieur de Tonty raconta a cette femme chef que on nous avoit dit dans Le Village précédent elle desaprouva tout luy dit que toute La nation avoit une grande joye de lerevoir et nous aussy mais se qui Les fachoit Estoit de nestre pas assurée de les revoir et de Les posseder plus Longtemps [...]]⁵⁴

[Monsieur de Tonty related to the woman chief what had been said to us in the last village. She disapproved of it all, and told him that the whole of her tribe were greatly rejoiced at seeing him once more, as well as us, but that they regretted that they could not be sure of seeing him again and of having him longer with them.]]⁵⁵

According to Trowbridge, women could also lead war parties amongst the Myaamias, though under specific circumstances, namely to seek revenge for the loss of their friends if this path was revealed to them in a dream. In this case they could be “awarded the honor of carrying the sack [that is a Medecine Bag] & leading the party which was to avenge the death of their friends. They continued to wear the dress of women tho’ at the head of the party and generally came off victorious.”⁵⁶

Besides Chiefs, Medecine Men and Women also appear to have had some legal authority, though the extend of this is not clear. The occasional reports of this seem to indicate that their authority stemmed from the awe in which their powers were held. De

⁵³ Jean-François Buisson de Saint-Cosme, “The Voyage of St. Cosme, 1698–1699,” *art. cit.*, p. 353.

⁵⁴ Jean-François Buisson de Saint-Cosme, “3^e lettre : Copie d’une lettre datée de la Rivière Arkansas, le 2 janvier 1699,” *art. cit.*, p. 60.

⁵⁵ Jean-François Buisson de Saint-Cosme, “The Voyage of St. Cosme, 1698–1699,” *art. cit.*, p. 353; see also, John A. Walthall, F. Terry Norris and Barbara D. Stafford, “Woman Chief’s Village: An Illini Winter Hunting Camp,” *art. cit.*, pp. 147–148.

⁵⁶ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, *op. cit.*, p. 26.

Liette recounts how a famous Peorian Medecine Man showed him rattlesnakes whose fangs had been removed, rendering them harmless to handle. The youths, not being aware of this, consider the shaman to have great spiritual power, that is “Les estimerioient des Manetoua [would regard them as manitous].”⁵⁷ He continued that the French should not blame him for this as it was well motivated:

[...] qu’il estoit necessarie que les Jeunes gens les craignissent, afin que quand ils leurs faisoient des Remonstrances sur les Vols qui se faisoient entre eux Et même aux françois et sur les pillages qu’ils se faisoient de leurs femmes ce qui causoit souvent la mort de quelqu’un, et même pour les Injures qu’ils disoient a la Robes noire qui empesche que Les filles ne couchent avec eux [...]

[it was necessary that the young men should fear them when the medicine men remonstrated with them for robberies they sometimes committed among themselves and even among the French, for stealing of each other’s wives, which often caused the death of some one of them, and even for the insults they offered to the Black Robe who kept young girls from coming to sleep with them.]⁵⁸

The last point, concerning the Jesuits, or Black Robes, who influenced the young women to adopt a celibate life is reminiscent of the story of Marie Rouensa-8canic8e, and many indeed have been directly connected to this. The extend that the practice of defanging was a closely guarded secret is questionable, given that De Liette had already heard rumours of this. Nevertheless, even if he was aware that the rattlesnakes were harmless, De Liette was impressed by the practice given that he disliked snakes, something that was shared by the women and girls who saw the demonstration. In any case, the important element to retain is the role that Medecine Men and Women held in maintaining social order. One finds further evidence of this in the Largillier-Gravier Dictionary, in the gloss for the term <Mantchitagane>, which is given as “ce que le jong. plante dans son champ pr faire peur

⁵⁷ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 374.

⁵⁸ *Ibid.*

empescher qu on ne vole [what the shaman plants in his field to cause fear, to keep people from stealing].”⁵⁹ While there is little detail in the colonial record on this count, Medecine Women appear to have been an equivalent of the female Chiefs mentioned above.⁶⁰ For example, one finds <Amantchi8iona> which is given as “les manit8s d’une jongleuse [the spirit helpers of a shamaness],” as well as <Mitec8a> or <mitec8e> for “jongleuse [female shaman, medicine woman].”⁶¹ It is probable that they had an equivalent role as far as maintaining social order as their male counterparts, though maybe only amongst the women or in certain areas. This is one aspect of Illinois legal culture that remains a closed book. Nevertheless, authority can be retained as a key aspect of their jurisprudences.

The thread of universality

The second principle here is that law needs to have, inherent in it, a principle of universality. That is to say, when making a decision, the authorities “*intend* it to be applied to all similar or ‘identical’ situations in the future.”⁶² This distinguishes legal decisions from *ad hoc* resolutions of conflicts. The idea of intent is important, as it allows that a decision made by legal authorities confronted by a new situation can be considered as law, provided that it is intended to become a precedent. Law, therefore, requires similar situations to be resolved in the same way, providing for variations due to the circumstances of each individual case. Here the association in the Miami-Illinois—and—French dictionaries of <kikint8ragane> with both “law” and a “target,” is of interest. It

⁵⁹ LG, 247:28.

⁶⁰ De Liette does mention “Les Jongleurs et Jongleuses [medicine men and the medicine women],” Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 369.

⁶¹ LG, 247:18 and 300:2, LB, 262:25.

⁶² Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 79 (italicization follows the original).

would seem to indicate their view of law was that it attempted to reach a goal, even if this was not always achieved. Of course, this may be stretching the limits of the source material too far.

When considering Early Modern French legal culture, one can compare written laws with decisions handed down by the courts in order to establish what the law was at a given period. It is important to note that even if a rule is found in the statute books it may not be law, in the sense of *droit*, if it has ceased to be applied. When considering laws in a society with an Oral Legal Tradition, it is not possible to consult the written records of decisions or statutes. These existed in other forms, of course, in memory and stories, though only a few of these have survived from the 18th century. Of the clear cases in which a decision, a legal authority, and a sanction can be identified, there are not enough to establish a pattern of universality. For this one needs to rely on the comments of French observers, such as Nicolas Perrot, who wrote that certain laws or customs were generally applied. It should be noted, however, that such assertions have to be treated with caution as there is generally a lack of precision surrounding the modalities of legal decisions, not to mention problems of bias. This is one of the reasons it is preferable to talk in terms of legal culture and jurisprudences rather than law. Even if a given jurisprudence was *ad hoc* rather than universal, it can still be indicative of underlying legal principles.

While making assumptions about the universal application of Illinois jurisprudences has to include an element of speculation, one of the key aspects to universality in societies whose law is based on Oral Traditions is the question of how customs are transmitted from one generation to another. Considering this can provide an understanding of how the principle of universality operated, even when a question mark hangs over the source material. Here one can return to Wittgenstein, whose commentary on concepts has

provided an opening to understand the relation of ideas relating to crime, and consider the following reflection of his on how games are learnt:

Let us recall the kinds of case where we say a game is played according to a definite rule.

The rule may be an aid in teaching the game. The learner is told it and given practice in applying it. – Or it is an instrument of the game itself. – Or a rule is employed neither in the teaching nor in the game itself; nor is it set down in a list of rules. One learns the game by watching how others play. But we say that it is played according to such-and-such rules because an observer can read these rules off from the practice of the game – like a natural law governing the play. – But how does the observer distinguish in this case between players' mistakes and correct play? – There are characteristic signs of it in the players' behaviour. Think of the behaviour characteristic of correcting a slip of the tongue. It would be possible to recognize that someone was doing so even without knowing his language.⁶³

Wittgenstein was reflecting on the learning of language, but these remarks can also apply to moral codes as well, the underpinning of a legal culture. Of course, the administration of justice is not a game, but like a game it is a human activity governed by rules. Indeed, the inherently adversarial nature of crime – there necessarily being a perpetrator and victim – makes the analogy to a game a useful one. To this can be added the elementary truth that behind all philosophies of justice lies the desire to avoid blood feuds and maintain the established social order.⁶⁴ As such, one can identify the victim, perpetrator and legal agents with players, each with their own particular goals. In this optic, one can consider Wittgenstein's remarks both in relation to the French trying to understand the

⁶³ Ludwig Wittgenstein, *Philosophische Untersuchungen–Philosophical investigations*, *op. cit.*, pp. 26–27 (note 54).

⁶⁴ For an overview of the variety of techniques that can be applied in societies without states, see E. Adamson Hoebel, *The Law of Primitive Man: A Study in Comparative Legal Dynamics*, Cambridge (Mass.), Harvard University Press, 1967, 357 pp.; the efficiency with which violent impulses can be controlled in societies without the mechanisms of the state is open to discussion, see, for example, Maurice Cusson, *Les homicides : Criminologie historique de la violence et de la non-violence*, Montréal, Hurtubise and Presses polytechniques et universitaires romandes, 2015, pp. 27–74.

Illinois law and the historian's attempt to understand the nature of law in past societies.⁶⁵ They also help illustrate how the principle of universality can be propagated from one generation to another.

Take the first remark, "The rule may be an aid in teaching the game. The learner is told it and given practice in applying it." The moral rules are found in a society come from a variety of sources. Just as parents will correct a child's grammar, so are behaviours checked or condoned. This, of course, extends beyond the child's immediate circle after a certain age and includes lessons from their peer-group and other adults. For the historian, however, this moral education takes place behind a veil. As it is an unremarkable feature of life, evidence of this process rarely finds its way into the historical record. In trying to elucidate the moral philosophy of the Illinois, in the time period under study, there is no record of this type of interaction. However, an important part of moral education comes from stories. Whether a story is an anecdote, part of a myth, history, or a tall tale, there will generally be a moral element. Indeed, as has been mentioned, stories can be used as a way of studying Indigenous legal cultures.⁶⁶ While this is clearly a central element within a culture based on Oral Tradition, it is important to note that cultures with a written tradition also rely heavily on stories to communicate the moral basis of their laws.

⁶⁵ In her study of European and Indigenous interactions in South America, Tamara Herzog noted: "Similar to what Ludwig Wittgenstein once did regarding the study of language, the task is to ask whether we can reconstruct rules by observing interactions. As spectators in a soccer match, if we watched it sufficiently long on a sufficient number of occasions, would we decipher what the norms of the game were?" See Tamar Herzog, "Dialoguing with Barbarians: What Natives Said and How Europeans Responded in Late-Seventeenth- and Eighteenth-Century Portuguese America," in Richard Jeffrey Ross and Brian Philip Owensby, eds, *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, *op. cit.*, pp. 62–63.

⁶⁶ On the latter point, see John Borrows, "Heroes, Tricksters, Monsters, and Caretakers: Indigenous Law and Legal Education," *McGill Law Journal*, vol. 61, n° 4, 2016, pp. 795–846.

One can take the cautionary tale, “The Story of a Bad Man”, as an example of how a moral tale could be framed. There is no indication of when the events it refers to occurred and to what extent the story has been altered to emphasize its moral content, it nevertheless contains a powerful moral message. It begins “A young man was awfully bad. He had brothers but they were younger. All the women were afraid of him.”⁶⁷ The character of the young man is clearly stated at the beginning, as is the problem that he did not have any elder brothers able to control him, emphasizing the role of the family in enforcing the moral codes of the society. The story then continues, laying out the man’s shameful deeds: by pretending to be one of his younger sister’s suitors he tried to trick her into sleeping with him and eventually, when she recognized him, raped her. The shame associated with this led the girl to decide to commit suicide, rising early and climbing to the top of a tall tree with her pet bear cub. She was resolved to explain her actions, however, before she died. When her parents realized she was missing, they searched for her and eventually her mother found her in the tree.⁶⁸ What follows is their exchange. The repetitiveness, which is a typical motif of Algonquian tales, reinforces the gravity of the crime that has been committed. It has been quoted at length in order to illustrate this method:

The old lady insisted on her getting down from the tree. The girl wouldn’t quarrel when they called her to get down. Instead, she sang a song: “Call me your daughter-in-law, and I’ll come down.”

The old lady asked her what was the matter, but she wouldn’t speak. “Come down, daughter!”

“Don’t call me daughter, you must call me daughter-in-law.”

The old lady gave up and got the old man to speak to her. The old man insisted that she get down from the tree. “Come down, daughter!”

⁶⁷ David J. Costa, *myaamia neehi peewaalia aacimoona neehi aalhsoohkaana: Myaamia and Peoria Narratives and Winter Stories*, op. cit., p. 94.

⁶⁸ *Ibid.*

“You mustn’t call me daughter, but daughter-in-law.” And this was all she would say. She didn’t say whether she would come down or not.

Finally the old man gave up, and asked one of the younger boys to ask her to come down from the tree. Well the little boy told his sister to come down from the tree. “You mustn’t call me sister, but sister-in-law!” The boy pleaded with her, but couldn’t do anything with her.

By that time the old brother who had ruined her came up, and the old folks pleaded with him to ask her to come down from the tree. So he went and said, “Sister, come down from that tree.”

Finally the old folks knew there was something wrong. They went out and asked everybody to plead with her to come down from the tree. Finally the girl said, “You have pleaded with me long enough. I will come down.” So she came down. She got ready on the tree top and threw the little bear down first. She followed. She jumped out of the tree. When the bear landed, it killed him, and when she jumped it killed her.⁶⁹

The tragic tale does not indicate the fate of the young man, at least in the form it was recounted in 1916, though the teller, William Skye, did conclude with an explanation of the Peorian moral code concerning sibling relations: “This is why the Peoria will not allow a boy to crack a joke with his sister or tell an obscene story around her. If he did, they would punish him by scratching him with garfish jaws.”⁷⁰

The number of tales in Miami-Illinois that were recorded is limited, and this is the only one that deals with something that can be recognized as resembling a criminal offence. It is quite possible that those informants who chose to work with the anthropologists recording these stories at the beginning of the 20th century decided not to share other such stories out of a worry that they may have cast an unfavourable light on their society. It is equally possible that the anthropologists were either not interested in such tales, or did not ask to hear them for other reasons. In the 18th century there were certainly many more stories told, and these would have formed an important part of the moral (and hence legal) education of the Illinois.

⁶⁹ *Ibid.*, pp. 94–95.

⁷⁰ *Ibid.*, p. 95.

Universality is, therefore, the weakest of the threads discussed here due to the limitations of the source material. The examples of Illinois jurisprudences for this period that have been preserved were recorded due to their intersection with French interests in one way or another. As such, it is not possible to establish with certainty the scope of their application. This said, it is important to bear in mind that Illinois legal culture was underpinned by a moral philosophy that would have reinforced the principle of universality, even if this remains obscure.

The thread of social obligations

The third attribute is that of social-legal obligations, the two-way relation of legal rights and duties between individuals and/or groups. Pospíšil addresses this under the Latin term *obligatio* rather than the English “obligation” as the latter indicates a one-way relationship (though in this study the term “social obligations” is employed).⁷¹ Unlike the three other threads that contribute to the concept of law, Pospíšil does not include *obligato* in his schematic rendering (see Figure 3.2). Because the term refers to the “rights of one party to a dispute and the duties of another,” and is therefore relative in nature, it does not play a role in the creation or obsolescence of a law.⁷² Rather it “describes the delict, showing how the relations became unbalanced by the act of the defendant.”⁷³ It is not only the crime itself, but more importantly the breaking of social relations that comes from this, a breach that requires a resolution according to that society’s laws.

⁷¹ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 82.

⁷² *Ibid.*, p. 81.

⁷³ *Ibid.*

In Hoebel and Llewellyn's study of the legal system of another Algonquian-speaking people, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence* (1941) it is suggested that in some cases such social obligations can be internalized to such an extent that individuals apply a sanction on themselves "with no standing officials to enforce it."⁷⁴ In the "The Story of a Bad Man" discussed above, for example, the girl's suicide could be seen as a sanction for breaking the law on incest (though such a reading would confuse shame and sanction). In his "Essai sur le don [Essay on the Gift]" (1925), the French anthropologist Marcel Mauss highlighted the fundamental place of the sacred in human societies:

L'un des premiers groupes d'êtres avec lesquels les hommes ont dû contracter et qui par définition étaient là pour contracter avec eux, c'étaient avant tout les esprits des morts et les dieux. En effet, ce sont eux qui sont les véritables propriétaires des choses et des biens du monde. C'est avec eux qu'il était le plus nécessaire d'échanger et le plus dangereux de ne pas échanger. Mais, inversement, c'était avec eux qu'il était le plus facile et plu sûr d'échanger.⁷⁵

[Among the first groups of beings with whom men must have made contracts were the spirits of the dead and the gods. They in fact are the real owners of the world's wealth. With them it was particularly necessary to exchange and particularly dangerous not to; but on the other hand, with them exchange was easiest and safest.]⁷⁶

While Mauss was writing about paleolithic societies, the Jesuits would certainly have agreed that God was the "real owner of the world's wealth," just as the Illinois emphasized the necessity of respecting ancestors by "covering the dead" with ritual offerings in order to wipe away the tears of their relatives, an incredibly powerful and important ceremony. One finds the term «Nina8ac8na» in the Largillier-Gravier Dictionary, for which the gloss

⁷⁴ Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*, Norman (Okla.), University of Oklahoma Press, 1987, p. 286.

⁷⁵ Marcel Mauss, "Essai sur le don: forme et raison de l'échange dans les sociétés archaïques," *L'Année sociologique*, 1923, p. 56.

⁷⁶ Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies*, London, Cohen & West, 1966, p. 13.

is “je donne qq chose au mort pour le couvrir ou en temoignage de ma douleur [I give something to the dead one in order to cover him or in testimony to my sorrow].”⁷⁷ Simply put, ritual, morality and the sacred formed an important base for customary law in the *Pays des Illinois* for both the French settlers and Illinois communities.

However, Pospíšil is wary of including a purely supernatural relation in the attribute of *obligato*, unless there are those who will enforce it. “*Obligato* is a relation between two parties who are both represented by living individuals. Hence all obligations toward the dead and toward the supernatural are excluded from legal consideration unless the interests of the dead or of the supernatural are represented by living people.”⁷⁸ This does not remove the supernatural from the concept of law, but underlines that it only plays a role in the concept of law insofar as it is something that will, ultimately, be enforced in some way.

This is one area in which differences between the French and Illinois approaches to law were thrown into relief in the *Pays des Illinois*. Things that were legal obligations for the Illinois could be seen as an informal arrangement by the French, and vice versa. The case of Jean Baxé (or Bacqueree) serves to illustrate this. Baxé was of African origin, though whether he had been born there or in Louisiana is not recorded. He was, in 1730, enslaved to Paul and Marie Rose Tessier, the (minor) children of Louis Tessier (who had died at Natchez in 1721) and Catherine Marie 8abanquikois, an Illinois woman.⁷⁹ The week before the Christmas of 1730 he was brought before provincial court at Fort de

⁷⁷ LG, 322:11. The gloss continues “it. je jette qq chose a ~~ceux~~ (son mary) qui (la) meprisent maltraite ~~une~~ ~~de mes parents qui est chez eux~~ pour luy faire cognoître qu il devoit en agir autrement [also I throw something at my husband who looks down on (me), mistreats (me) in order to let him know that he should act otherwise.” (my translation, words struck through in the manuscript)]

⁷⁸ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 84.

⁷⁹ KM, 21:9:13:1.

Chartes.⁸⁰ He had been involved in a fight with a Frenchman named François Bastien, a tenant farmer of the Tessier children. According to the testimony of Baxé, he had been seized (“pris au corps”) by Bastien who had started to beat him, landing a powerful blow on his left arm. To defend himself he had taken hold of Bastien’s hood. On turning, however, Bastien had fallen against a door and ended on the ground with Baxé, still holding the hood, on top of him. Another Frenchman, Larose, found the pair in this position and took steps to separate them.⁸¹ Bastien’s complaint contradicted Baxé’s statement of self-defence, claiming that he had both hit and bitten him.⁸² On the 22nd of December, Terrisse du Ternan, in the name of the French officers present, declared that the case “ne nous paroissant que estre si grief que d’une punition exemplaire et publique [appears to us to be so serious as to merit a exemplary and public punishment (my translation)].”⁸³ Sometime on the same day, the Illinois Chief Mamentouensa intervened on Baxé’s behalf, his intervention was noted as follows:

[...] droit entrautre de mitiger et adoucir la punition du d[it] negre en consideration de la prier de Mamantouensa au nom de son village de commuer la peine de mort si il la meritait a le faire fouetter deffandant a toutes paroissiens de quelque qualité et conditions qui le soient d’augmenter ny diminuer la d[it] punition en quelque manière qui soit.

[having concluded to mitigate and soften the punishment of the aforementioned negro, amongst other things, in consideration of the plea of Mamantouensa in the name of his village to commute the death penalty, were he to merit it, to whipping, we forbid all parishioners of any rank or position to either increase or decrease the said punishment in any way or manner. (my translation)]⁸⁴

⁸⁰ On this case, see Winstanley Briggs, “Slavery in French Colonial Illinois,” *Chicago History*, vol. 8, n° 4, Winter 1990, pp. 66–81; Margaret Kimball Brown, *History as They Lived It: A Social History of Prairie du Rocher, Illinois*, Carbondale (Ill.), Southern Illinois University Press, 2014 (2005), p. 51; and Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, p. 160.

⁸¹ KM, 30:12:22:1.

⁸² KM, 30:12:20:2.

⁸³ KM, 30:12:22:2.

⁸⁴ KM, 30:12:22:3.

Mamentouensa's reasons for intervening in this case are unclear. However certain conclusions can be drawn from the above statement. Before addressing these, it is necessary to know something of the man and his importance for the Illinois and, by extension, their French allies. Mamentouensa (also spelt Mamenthouënsa) was a Kaskaskian Chief referred to as the "Grand Chef des Illinois," that is a Paramount Chief of the Illinois, and addressed a letter to Louis XV "au nom de toute ma Nation, & particulièrement de ceux que je regarde pour mes Chefs [in the name of my Nation, and particularly those whom I regard as chiefs]." ⁸⁵ He appears as a witness to a number of documents recorded in the Kaskaskia Manuscripts, though his intervention to save Baxé's is the only one that provides more information than this, and that is short in itself. He was present at the capture of Pensacola by the French in 1719 and appears to have been an active warrior. ⁸⁶ In 1723 he was part of the Kaskaskian delegation that came to Fort de Chartres to ask for clemency to be granted to André Perillault, a Frenchman accused of a murder, though he did not speak then (possibly due to his high status). In 1725 he sent a wampum belt and letter to Louis XV with a delegation that travelled to Paris. According to the letter, the French commanders were unwilling for him to leave the country due to his importance to the defence of the *Pays des Illinois* from the Meskwaki (Fox). He is also recorded as having visited New Orleans in 1730, with the Michigamean Chief Chicagou in order to offer military aid to the French against the Natchez and Yazoo. ⁸⁷

⁸⁵ "Relation de l'arrivée en France de quatre Sauvages de Missicipi, de leur séjour, & des audiences qu'ils ont eues du Roi, des Princes du Sang, de la Compagnie des Indes, avec les complimens qu'ils ont faits, les honneurs & les presens qu'ils ont reçus, &c.," *Mercure de France*, December 1725, pp. 2828, 2843; translation from Richard N. Ellis and Steen, Charlie R., "An Indian Delegation in France, 1725," *Journal of the Illinois State Historical Society*, vol. 67, n° 4, September 1974, p. 399.

⁸⁶ "Relation de l'arrivée en France de quatre Sauvages de Missicipi, de leur séjour, & des audiences qu'ils ont eues du Roi, des Princes du Sang, de la Compagnie des Indes, avec les complimens qu'ils ont faits, les honneurs & les presens qu'ils ont reçus, &c.," *art. cit.*, p. 2843.

⁸⁷ JR, vol. 68, pp. 202-204.

This, then, was a man to be taken seriously. Mamentouensa made his appeal in Baxé's case in the name of his village, which would tend to rule out the possibility that he was intervening simply on the behalf of Catherine Marie Babanquikois and the Tessier children who would have lost an important asset had Baxé been executed). It can be assumed that there were links of friendship between Baxé and some of the Illinois, though there is no information as to what these were. Terrisse du Ternan referenced the 1724 *Code Noir de la Louisiane* that regulated slavery in his initial condemnation of Baxé.⁸⁸ Under this, Baxé should have been executed, which appears to have been Du Ternan's preferred verdict.⁸⁹ However, after Mamentouensa's intervention a much lighter sentence was imposed: "Baxé was sentenced to make an apology to Bastien on bended knee, to be whipped on three different days, and to bow to Bastien whenever he encountered him."⁹⁰ As one historian has noted, "by eighteenth-century standards this was lenient treatment indeed."⁹¹ It has also been observed that as "The purpose of a public apology, obviously, was to humiliate the culprit; therefore, Jean Baxe, slave, must have had enough status to lose some."⁹²

What this case illustrates is the differing views of social obligations between the French and Illinois forms of law. For the French, the relationship between "les negres [negros]" and "des blancs libres [free whites]" was one of subjugation and required "a

⁸⁸ KM, 30:12:22:2.

⁸⁹ MacDonald gives undue credit to Terrisse du Ternan for this decision, see David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, p. 140. As mentioned above, KM, 30:12:22:2 called for an exemplary punishment, which was the decision of the French officers present. Terrisse du Ternan was presiding, wrote the document and signed it. The decision to soften the sentence came later and was due to Mamentouensa's intervention, see KM, 30:12:22:3.

⁹⁰ Ibid.

⁹¹ David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, p. 140.

⁹² Winstanley Briggs, "Slavery in French Colonial Illinois," *art. cit.*, p. 78.

punition corporelle [a corporal punishment]” of the most exemplary kind.⁹³ In order to maintain a system of plantation slavery, so profitable for the French Empire, it was necessary to apply the harshest of punishments on the enslaved. On the other hand, the relationship was not construed in the same fashion by the Illinois. It does not appear that Baxé’s actions would have been seen as a criminal by them. Had Bastien killed him, or he Bastien, the matter would have been different. But the racial nature of slavery was not a concept within Illinois society, nor was it one that would have been necessarily derived from French society in the *Pays des Illinois*, as slaves could also be Indigenous, and there were free Black inhabitants alongside the enslaved.⁹⁴ As such from the Illinois perspective, the social obligations between Baxé and Bastien (who had no direct power over Baxé) would not have been seen as being broken by the incident.

Mamentouensa embodied the attribute of authority, and can be seen as acting as a legal agent in the Baxé case. However, his role was not that of a judge, but rather an arbitrator trying to negotiate the interplay of social obligations between French and Illinois legal cultures. Given the nature of the source material, it is often when the social obligations between legal cultures clash that these are recorded.

The thread of sanction

The final distinguishing feature of law is that there are sanctions associated to its breach. Without these, or if they are arbitrary, law is separated from the attributes of authority and universality and becomes a question of moral disapproval rather than law.

⁹³ KM, 30:12:22:2.

⁹⁴ Margaret Kimball Brown, *History as They Lived It: A Social History of Prairie du Rocher, Illinois*, op. cit., pp. 50–55.

Pospíšil defines sanction “either as a negative device in withdrawing rewards or favors that otherwise (if the law had not been violated) would have been granted, or as a positive measure in inflicting some painful experience, physical or psychological. It should be stressed that *sanction as a legal criterion* appears as a statement in the decision of a legal authority [...]”⁹⁵ He emphasizes that the decision is separate from the actual application of the sanction, which can be handed to various agents or left in the hands of private parties (as in the case of Pierre Faffard’s complaint about the adultery of his wife). Sanctions can vary greatly and include public apologies or humiliation, shunning, fines or other forms of compensation, physical punishments such as beatings, disfigurements, and various forms of torture and the death penalty. The punishment of scratching with gar fish jaws, mentioned above, is an example of a sanction. It would no doubt have been a painful one, this fish is named *asiikamia* in Miami-Illinois and the gloss provided for it in LeBoullenger’s dictionary is “poisson armé,” which can be translated as “armed fish,” indicating their impressive teeth.⁹⁶ Whether it can be considered a legal sanction is another matter, for that requires that it be applied by a legal authority and include a principle of universality.

A variety of sanctions employed by the Illinois in relation to crimes will be discussed in the next two chapters. Here, one example can be taken to illustrate how sanctions were conceived of by the Illinois in the 17th and 18th centuries. The jurisprudences of the Illinois concerning hunting involve a clear principle of social control. The hunting expedition was one of the areas of Illinois social life that required the exercise of coercive

⁹⁵ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, p. 92 (italicization follows the original).

⁹⁶ LB, 78:10.

power to maintain the interests of the group over those of individual families. Hunting was an integral part of the Illinois economy and the seasonal bison hunt provided an important source not only of protein but also of materials, such as skins. The main hunt occurred in the summer and required the establishing a hunting camp away from the village in order to approach the herd (see Model 2.1). The evening before leaving for the hunt an expedition leader was appointed. Usually this was a highly respected War Chief who, working with the other Chiefs, would establish, “tout ce qui doit ester réglé dans la marche qu’on tiendra pour la chasse des buffles [all the rules that should be laid down for the procedure that they must observe in order to hunt the buffaloes].”⁹⁷ These rules were communicated to the community:

Le meme jour, un des principaux fait une harangue en presence de toute l’assemblée, dans laquelle il expose ce qui a esté prescript au sujet des limites qui seront gardées dans cette chasse, et les punitions ordonnées pour ceux qui les passeront. Il declare qu’elles portent de les depouiller de leurs armes, de briser leurs arcs, et leurs fleiches, de romper leurs cabannes et de piller tout ce qui se trouvera dedans. Cette loy est parmy eux irrefragable. La raison qui les oblige d’en user avec tant de severité et d’exactitude envers ceux qui manquent d’y obeir est que si dans la chasse, on passoit les bornes prescripts, toutes les bestes s’enfueroient, et le village seroit en danger de mourir de faim. Touts les chef sont generalement sujets à cette loy. Si mesme celui qui est par dessus tous les autres avoit commis la faute, il en subiroit pareillem[en]t la rigueur, comme un autre, sans egard à son autorité, et en cas qu’il ne voulut pas s’y soumettre, toute la Jeunesse, qui est pour ainsy dire son appuy, se banderoit contre luy et feroit main basse sur tous ceux qui se preseneroient pour soustenir son party.

[On the same day, one of the leading men makes a harangue before all the assembly, in which he makes known the orders that have been observed in this hunt, and the punishments ordained for those persons who overstep them. He declares that these orders provide for depriving the disobedient of their weapons, breaking their bows and arrows, tearing down their cabins, and plundering them of property found therein; and this law is inexorable among them. The reason which obliges them to employ so much severity and strictness against those who fail to obey the rule is, that if any of them during the hunt were to pass beyond the prescribed limits all the game would escape them by flight, and the village would be in danger of perishing from hunger. All

⁹⁷ Nicolas Perrot, *Mémoire sur les moeurs, coustumes et relligion des sauvages de l’Amérique septentrionale*, *op. cit.*, pp. 273–274; Nicolas Perrot, “Memoir on the Manners, Customs, and Religion of the Savages of North America,” *art. cit.*, pp. 120–121.

the chiefs are generally subject to this law; and even if he who is appointed over all the rest should commit this fault he would be punished with the same rigor as any other man, without regard to his authority. In case he refused to submit to it, all the young men – who are, so to speak, his prop – would unite against him, and lay violent hands on all persons who should come forward to take his part.]⁹⁸

Here one can see the attributes of authority, universality, social obligation and sanction, making this a question of *droit* or law proper. The actual orders and connected punishments would fall under the idea of *loi* or abstract rules. One can assume that, given the annual nature of these expeditions, the principle of a universal application would have been forged out of past practices, and that this formed part of Illinois custom. Pospíšil portrayed law as a dialectical interplay between a society's customs and those in a position of authority: laws can either arise from custom or be imposed by a political authority. Imposed laws can come from the decisions of a political leader or powerful minority group in a society, just as they can be forced on a society by an external source, such as a colonial power like the French Empire. Such laws can become internalized in the population and may, eventually, become customary. Likewise, customary laws can, as circumstances change, become marginal and ultimately disappear.⁹⁹ There is no inevitability in this, and imposed laws that run contrary to custom may never gain general acceptance and require coercion to impose, just as political authorities can be restrained by custom (for a schematic rendering of this process, see Figure 3.3). In this view, the rules for the hunt laid down by the selected Chief, while based on custom, could include particular instructions or sanctions that were introduced as responses due to peculiarities connected to that specific hunt.

⁹⁸ *Ibid.*

⁹⁹ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, *op. cit.*, pp. 193–197.

The issuing of rules and their connected sanctions is, however, only one side to the question of law. For these to be considered as laws they need to be enforced. The necessity of approaching prey without frightening the animals was so delicate that it required policing. To this end, the Illinois appointed hunting guards, or *gardes de chasse*. Their role appears to have been limited to the period of the hunt and, importantly, they served the interests of the community rather than any private individual. Beyond this, their selection, organization and responsibilities are not clearly described by the French authors on whom we have to rely. There are a few references to this practice in the Miami-Illinois–and–French dictionaries, which indicate that the guards set the limits beyond which nobody was to go without authorization. Notably ⟨Pimit8ei8tangha⟩, given as “garde de chasse qui va devant et crie qu on n aille pas plus loin oa oa ... [hunting guard who goes ahead and cries out so no one goes further ‘wa, wa’...]” and ⟨Pimit8ei8tam8a⟩ for “il crie en marchant, garde [he cries out while walking, the guard in the hunt].”¹⁰⁰ Beyond this role there is nothing further that appears to be present in the Miami-Illinois–and–French dictionaries. However, a case recorded in the by De Liette provides a fascinating glimpse at the application of a sanction to a family who attempted to leave the summer camp without permission. De Liette recounts a transgression of this law and its punishment:

Un homme et une femme voulerent une fois s’échapper du gros dans le temps que les gardes etoient a amasser des fraises, un d’eux les vit et couru apres pris la charge de l’homme, coupa le collier, les peaux d’ours qui leur servent de matelas pour se coucher brisa les Chaudieres que la femme portoit et pense tuer un Enfant qu’elle avoit sur sa charge en luy arrachant de dessus la teste, et tout ce fit sans que l’homme n’y la femme disent la moindre chose.

[A man and woman once tried to escape from the band while the guards were busy gathering strawberries; one of the guards saw them and ran after them, took away the man’s load, cut the collar and the bear skins which they used as a mattress, smashed the kettles which the woman was carrying, and came near to killing a child, which she had upon her

¹⁰⁰ LG, 471:8 and 15.

load, by pulling it from her head; and all this happened without the man or woman saying a single word.]¹⁰¹

The fact that the couple did not react to this punishment clearly indicates that this was an expected sanction, and one for which they had no recourse. The near killing of the infant is curious, however. From the source, it is not immediately clear whether this was an accident and that it was the contents of the woman's pack that were being targeted, or whether the killing of the child would have been seen as a justified part of the sanction. However, the use of *penser* ("to think") before a verb has the sense of "Estre sur le point de... [To be on the point of... (my translation)]" in *Le Dictionnaire de l'Académie Française* (1694).¹⁰² From this, it is clear that the child was not a target. If the unfortunate infant had been killed it is not clear what the consequences would have been, but there is no evidence of callous treatment of their offspring amongst the Illinois (rather the opposite), and it is likely that this occurrence would have brought into consideration a separate field of law. Of the organization and selection of the guards, there are no clear details. De Liette noted that "il restoit toujrs quelques jeunes Gens a tour de Rolle avec les Viellards a qui ils donnent le nom de Gardes [some young men always came by turns with the old men. They are called guards]."¹⁰³ It is possible that these young men belonged to a Soldier Society of some sort, though the evidence for the existence of such bodies at this time is very fragmentary.

Within Illinois jurispractices, the thread of sanction is one of the aspects that is clearest in the primary source material, as these are unusual events and therefore were

¹⁰¹ Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, pp. 309–310.

¹⁰² L'Académie française, *Le Dictionnaire de l'Académie française*, vol. 2, Paris, Jean Baptiste Coignard, 1694, p. 213.

¹⁰³ Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, p. 309.

more likely to be recorded. This said, there is a hierarchy to sanctions, so while the dramatic instances are likely to be noted lesser sanctions may not be cause for remark. This means that there are no doubt laws for which this thread has gone unnoticed, and so are not included in the historical appraisal of Illinois legal culture.

Law as a dynamic process

A final aspect of law that needs to be addressed is its dynamic nature. Law is never entirely static. When cases occur, it is tested and (possibly) reinforced, yet law is always open to transformation. This is particularly important when analysing jurisprudences, as this thesis does. Laura Benton has observed that:

[...] because we are not talking about law as sets of norms or rules but rather law as practice, the legal framework becomes subject to change. Routine acts may lose legitimacy over time; jurisdictional boundaries may shift, creating new sources of legitimate legal authority; and seemingly fixed attachments by a group to a particular way or doing law may give way to adaptation and importation of legal processes that only a few years before would have appeared impossible.¹⁰⁴

One of the features of studying the historical laws of the Illinois, is that much of what would have constituted their legal culture was not recorded in the 17th and 18th centuries. Oral Traditions, such as the “Story of a Bad Man”, that were put to paper at a later date do show the nature of the sources that would have existed in the *Pays des Illinois*. However, the dynamic nature of law means that the extant versions cannot be relied upon to give a complete picture of law in earlier centuries. This is not to say that the underlying principles of law could not remain the same over the space of centuries, only that we cannot assume that they did.

¹⁰⁴ Laura Benton, “In Defense of Ignorance: Frameworks for Legal Politics in the Atlantic World,” in Richard Jeffrey Ross and Brian Philip Owensby, eds, *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, op. cit., p. 276.

As mentioned above, Pospíšil describes how laws can be derived from an imposition by an authority or from custom. These two sources of law are connected to the attributes of authority and universal application. Imposed laws can become internalized and hence customary, just as customary laws can fall into disuse and become extinct.¹⁰⁵ For the Illinois, there are no clear indications of their law before the late 17th century. However, one can see an example of a law that changed in the account of an outmoded punishment for murder amongst the Huron provide in the *Jesuit Relations*. In the 17th century murder amongst the Huron-Wendat was settled in the same manner as the Illinois through a condolence ceremony in which the victim's family received material as well as spiritual compensation. Previously, a particular form of public humiliation was imposed on the murderer:

Autrefois les parties ne s'accordoient pas si aisément [...] On etendoit le mort sur des perches, & le meurtrier estoit contraint de se tenir dessous, & recevoir dessus soy le pus qui alloit dégoutant de ce cadavre [...] pour luy il demouroit en cet estat tant & si long temps qu'il plaisoit aux parens du defunct; & encore apres cela pour en sortir luy falloit-il faire un riche present qu'ils appelloient *akhiataendistia*.

[Formerly, the parties did not come to terms so easily [...] The dead body was stretched upon a scaffold, and the murderer was compelled to remain lying under it and to receive upon himself all the putrid matter which exuded from the corpse [...] he remained in this position as long as the relatives of the deceased pleased, and, even after that, to escape it he had to make a rich present called *akhiataendista*.]¹⁰⁶

As this account was written in 1636, one can assume that this punishment had been applied in the 16th century and had since disappeared. Interestingly, there is an account of its reappearance, in a harsher form, amongst the Tionnontaté-Huron (now the Wyandotte Nation) following their move west in the mid-17th century to escape Iroquois raids.¹⁰⁷

¹⁰⁵ Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, op. cit., pp. 193–197.

¹⁰⁶ JR, vol. 10, pp. 220–222.

¹⁰⁷ Bruce G. Trigger, *The Children of Aataentsic: A History of the Huron People to 1660*, op. cit., p. 820.

Apparently, the disruption caused by warfare and this forced migration led to an unravelling of their social fabric and an increase in robbery and murder. To re-establish social order, the tribal council decided to reinstate this punishment with the proviso that the guilty party would be kept under the corpse until they died, which could take up to two weeks.¹⁰⁸ This account comes from a Wyandotte Chief named Honnes or Honness in the early 19th century, a German-American who had been captured and adopted by the Wyandotte as a boy. He was apparently about one hundred years old when he died in the 1830s, which means his knowledge could have come from a witness of the events.¹⁰⁹

As concerns Illinois law, it is certain that it was different in the period being considered to what it was in that it had been in, say, the 16th century, though it is not possible to trace the extent of such changes. It can be suspected that the harsh punishments from female adultery, including disfigurement and gang rape, were a fairly recent development connected to the large numbers of women who were brought into the Illinois society as captives, thus lacking the family networks that could have protected them.¹¹⁰ Trowbridge, writing about the Myaamias in the mid-19th century, only indicates that adultery could lead to the killing of the parties by the aggrieved husband.¹¹¹ This would suggest a shift in the law, possibly the reassertion of an older principle.

As has been mentioned, the abandonment of the Grand Village of the Kaskaskias led to a division of Illinois society into autonomous villages and meant that the position

¹⁰⁸ James B. Finley, *History of the Wyandott Mission at Upper Sandusky, Ohio*, Cincinnati, Methodist Episcopal Church, 1840, pp. 62–63; see also Elisabeth Tooker, *An Ethnography of the Huron Indians, 1615–1649*, Syracuse (N.Y.), Syracuse University Press, 1991, p. 54 (footnote 81).

¹⁰⁹ Elijah H. Pilcher, *Protestantism in Michigan: Being a Special History of the Methodist Episcopal Church*, Detroit, R. D. S. Tyler & Co., 1878, p. 127.

¹¹⁰ See Gilles Havard, “« Il s’est levé plus de cent chevelures de femmes » : guerre et relations entre les sexes chez les Illinois (fin du XVII^e siècle),” *art. cit.*, pp. 153–163; and Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, *op. cit.*, pp. 57–59.

¹¹¹ Charles Christopher Trowbridge, *Meeārmeeār Traditions*, *op. cit.*, pp. 17 and 44.

of Paramount Chief lost much of its importance (though it is not clear how much authority he had previously wielded in regards to law). What can be asserted, however, is that the political structures that had been established in the Grand Village were in a state of flux in the late 17th and early 18th centuries, and that those with legal authority were mainly the Village Chiefs, both men and women. This would naturally have placed their laws under a certain strain, and it is important to bear in mind the underlying tensions between those in positions of authority and shifting customs. As such, it must be understood that Illinois legal culture in the beginning of the 18th century was going through a period of change. With this in mind, we can now turn to the thoughts of some of these Chiefs which were recorded in a unique set of documents at Fort de Chartres in 1723.

CHAPTER 4

A QUESTION OF MURDER

«8ic8akissen8i»

chemin gasté par un meurtre, guerre déclarée

[path spoiled by a murder, a declared war]

– Largillier-Gravier Dictionary¹

In the previous chapter, the idea was put forward that concepts are better understood as a being a tapestry made of various threads rather than a distinct picture of a phenomenon. Therein the dictionaries were treated as lexicons, collections of words that taken together, compared and contrasted, can provide insights into the conceptual world of the past. This can be termed an internal analysis of these sources. This chapter explores the concept of murder in relation to one historical case, and as such the Miami-Illinois–and–French dictionaries will be considered alongside a broader array of sources, which can be called an external analysis. In this approach, it is particularly the contextual or explanatory phrases that are of interest. As has been mentioned, the Miami-Illinois–and–French dictionaries also had the function of phrase books. The contextual information they provide will be reviewed in relation to the thorny issue of homicide, and particularly a case that occurred in Fort de Chartes some three hundred years ago.

“L’affaire de Perilaud”

On a Sunday in the month of April, or «M8tchapinga Kir», the month of rest as it is given in the Miami-Illinois–and–French dictionaries, a soldier named Morin was killed

¹ LG, 388:26.

by another Frenchman André Perillault.² It was the result of a quarrel that took place at an auction that escalated to the point that Perillault ran his sword through Morin, who died of his wounds shortly thereafter. The interest of this event is not the murder itself, though such dramatic events are fascinating in their own right, but the fact that it gave rise to a set of debates on how Perillault should be treated between the French officers responsible for prosecuting Perillault and Illinois leaders from Kaskaskia and Cahokia. Though the exact nature of their relationship is not clear, Perillault apparently had friends among the Illinois, with whom he was in regular contact as he was the “maitre de la marchandise” or warehouse-keeper.³ The timing of the incident may also have worked in his favour, with April falling between the rigours of winter and the sowing of crops in the Illinois seasonal cycle. This may have meant that the Illinois had more time to consider and act on the case than they might have. It is likely that the delegations would have been smaller at another time of year, as the Inspector General of Louisiana Diron d’Artaguiette noted in his journal that the Kaskaskian delegation included thirty:

3^e [mai]. Les cheffs du village des Cascakias, scavoir les nommée Kiraoueria, Michel et Mamentouïensa ayant entendus dire que l’on voulaioit faire mourir le nommé Perilaud detenu aux fers pour avoir tué le nommé Morin sont venus aujourd’huy au Fort de Chartres a la teste de trente hommes de leur nation demander sa grace. L’on prie Messieurs les Commissionnaires d’avoir recours aux deux feuilles de papier cyjointes ou les harangues de ces sauvages et les reponses y sont tout du long.⁴

[May 3. The chiefs of the villages of the Cascakias, namely Kiraoueria, Michel and Mamentouensa, having heard the report that they were going to put to death the man called Perilaud, held in chains for having killed the man called Morin, came today to Fort de Chartres with a band of thirty men from their nation to ask for his pardon. We beg the

² See LG, 305:34 and LB, 276:4; Perillault’s name is spelt in a variety of ways in the archives, most frequently “Perilaud.” Here the form employed in his pardon from Versailles has been retained, see ANOM, COL B, vol. 43, f. 378r.

³ “Les Chefs du Village des Kaskakias”, 3 May 1723, ANOM, COL C_{13A}, vol. 7, f. 319r; for notes on the translation see Appendix D.

⁴ “Journal de Diron d’Artaguiette”, 3 Mai 1723, ANOM, COL C_{13C}, vol. 2, f. 248v.

Commissioners to refer to two sheets of paper joined hereto, where the harangues of these Indians and the responses are given at length.]]⁵

As the two records of speeches show, the Illinois leaders appear to have been profoundly troubled by the French approach to justice. They acknowledged, according to the French record of their speeches, that Perillault “avait repandu le sang d’un françois, et que tu devois selon tes lois et coutumes repandre le sien [has shed the blood of a Frenchman and that you, according to your laws and customs, must shed his blood].”⁶ Nevertheless, this clearly struck them as wrong. While arguing for clemency for Perillault, they were also making a statement about their values, as well as quietly underlining the divergence between the Christianity being preached among them and French customs.

Before these events are discussed, the story of the Illinois needs to be picked up where it was left off in Chapter 2. The early 18th century was a time both of interaction between French and Illinois cultures, and a period of a sharpening of the divisions between them as French imperial power was extended into the interior of the North American continent. A growth of familiarity between the French and Illinois also served to bring into focus the more subtle differences between their societies, and their conceptions of justice.

Fort de Chartres

In 1717 the French administration of the *Pays des Illinois* was transferred from Canada to Louisiana.⁷ The French population had been growing there, as the French gloss

⁵ Diron d’Artaguiette, “Journal of Diron d’Artaguiette, Inspector General of Louisiana, 1722–1723,” *art. cit.*, p. 76.

⁶ “Les Chefs du Village des Kaskakias”, ANOM, COL C_{13A}, vol. 7, f. 319r.

⁷ ‘Lettres patentes du Roi pour la réunion du pays des Illinois au gouvernement de la Louisiane’, 27 September 1717, B 39:459

for ‹Papakissapi8a mamistig8chia› in Largillier’s manuscript bears witness to, “le françois se repant, va partout [the French are spreading, going everywhere (my translation)].”⁸ The area represented a concern to the French authorities, who saw it as a place of lawlessness, and particularly unlicensed trading.⁹ The establishment of an imperial presence in the *Pays des Illinois* came in 1719, when Pierre Dugué de Boisbriant led an expedition to establish a colonial presence and, above all, a military installation.¹⁰ Between 1719 and 1720 the Fort de Chartres was constructed north of Kaskaskia and would become the military and legal centre of French Illinois. In 1723 Diron d’Artaguiette described it as follows:

Le Fort de Chartres est un fort de pieux gros comme des jambes de figure quarré ayant deux bastions qui commandent toute les courtines. Il y a deux compagnies d’infanterie en garrison, commandées par Mr de Boisbriant chevalier de l’ordre militaire de saint Louis premier lieutenant du Roy de la province. Il y a une église hors du fort et des habitations une demye lieüe plus bas du mesme costé aussy bien qu’une demye lieüe plus haut. Jusqu’à un petit village Illinois ou il y a deux pères Jesuites missionnaires qui y ont une habitation et une eglise.¹¹

[Fort de Chartres is a fort of piles the size of one’s leg, square in shape, having two bastions, which command all of the curtains. There are two companies of infantry in garrison commanded by M. de Boisbriant, Knight of the military order of St. Louis, first royal lieutenant of the province. There is a church outside of the fort and some dwellings a half league lower down on the same side as well as a half league above as far as little village of the Illinois where there are two Jesuit fathers, missionaries, who have a dwelling and a church.]¹²

Problems of unlicensed traders appear to have persisted, however, possibly with De Boisbriant’s tolerance.¹³ It was also in 1719 that separate French and Illinois villages were

⁸ LG, 431:12.

⁹ “Arrêt du Conseil d’État qui unit et incorpore les pays des sauvages Illinois au gouvernement de la Louisiane”, 27 September 1717, ANOM, COL B, vol. 39, f. 459r; see also Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, pp. 85–86.

¹⁰ *Ibid.*, p. 105.

¹¹ “Journal de Diron d’Artaguiette”, ANOM, COL C_{13C}, vol. 2, f. 242r.

¹² Diron d’Artaguiette, “Journal of Diron d’Artaguiette, Inspector General of Louisiana, 1722–1723,” *art. cit.*, p. 69.

¹³ “Lettre de Vaudreuil au ministre”, 11 October 1723, ANOM, COL C_{11A}, vol. 45, ff. 151r–152v.

created in Cahokia and Kaskaskia, as before French traders had settled in, and married into, Illinois villages (see Map 4.1).¹⁴

Map 4.1. Part of a map of the Mississippi showing the *Pays des Illinois*, 1719¹⁵



This separation was connected to the establishment of a distinct French legal order in the *Pays des Illinois* and was a recognition that, from that point on, there were two parallel systems of justice, one Indigenous and the other European. Though the villages remained close to each other, both geographically and socially, this interference in their affairs

¹⁴ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, pp. 104–106.

¹⁵ Bernard Diron d'Artaguiette, "Fleuve St Louis cy devant Mississipy relevé à la boussole par le Sr. Diron l'an 1719 depuis la Nouvelle Orléans en montant jusqu'au village sauvage Cahokia, pays des Illinois [...] à Paris, le 20 may 1732", BnF, département Cartes et plans, Registre C:4199 (public domain; source BnF, gallica.bnf.fr).

remained a sore point for the Illinois. It was an indicator of the imbalance of power between them and the French, on who they relied for the firearms that were now key to their security. This can be seen when a Chief of the Michigameas, Chicagou, visited Paris in 1725 with a delegation of Indigenous leaders and gave speeches to the *Compagnie des Indes* and (the then fifteen-year-old) Louis XV.¹⁶ During this diplomatic mission, he also delivered the above-mentioned letter addressed to the king from the Kaskaskian Chief Mamentouensa. This laid out the Illinois disgruntlement with the resettlement:

Je te prie encore, mon Père, de confirmer ta parole, que m'a donné ici mon Père de Boisbriant. Il m'a promis qu'on ne m'inquieteroit pas dans mon Village, qu'on ne me le feroit plus changer, pour faire place au François, mes freres & mes gendres tes enfans; je me suis retiré, mais je crains encore ce changement, le changement nuit à la Priere, dérange mes jeunes gens, la Robbe noire, qui se lasse de bâtir, n'est pas prompte à nous suivre; nos femmes & nos enfans en souffrent; c'est pourquoi je souhaite d'être le maître de la terre de mon Village, & qu'on ne me parle pas si-tost.¹⁷

[I further beseech you, my Father, to confirm the promise made to me in your name by my father de Boisbriant. He promised me that no one would disturb me in my village, that no one would force me to make further moves in order to make room in it for Frenchmen, my brothers and your children, who are thus my kinsmen. I myself have retired from activity, but I still fear moving. Such moves disrupt the prayer, upset my young people, and even the Black Robe wearies of endlessly building anew and is thus not quick to follow us. Our wives and children suffer from it. It is for this reason that I wish to be the master of the Village and its land, for then no one would be so quick to speak of moving.]¹⁸

What Chicagou thought of the adolescent king is not recorded. The delegations incredulity with the displays of power and wealth at Versailles were noted in the *Mercure de France*, and they are said to have asked, “si c'étoit des hommes qui avoient fait la grande Galerie

¹⁶ His name is also spelt Chikagou and Chicagoue. The first name Agapit is sometimes given for him, which may have been an indication of his Christianity as it could be connected to the Miami-Illinois term for being happy, see Richard N. Ellis and Steen, Charlie R., “An Indian Delegation in France, 1725,” *art. cit.*, p. 391; According to Jean-Bernard Bossu he died in 1754. While Bossu is unreliable on several counts, the dating of Chicagou's death appears correct as he is noted as having died in 1756 in KM, 56:12:15:1, Jean-Bernard Bossu, *Nouveaux voyages aux Indes occidentales*, *op. cit.*, p. 212.

¹⁷ “Relation de l'arrivée en France de quatre Sauvages de Mississipi, de leur séjour, & des audiences qu'ils ont eues du Rois, des Princes du Sang, de la Compagnie des Indes, avec les complimens qu'ils ont faits, les honneurs & les presens qu'ils ont reçus, &c.,” *art. cit.*, p. 2844.

¹⁸ Richard N. Ellis and Steen, Charlie R., “An Indian Delegation in France, 1725,” *art. cit.*, p. 400.

à Versailles [whether human hands had made the Grand Gallery at Versailles].”¹⁹ On returning to their homeland, their compatriots had difficulty believing their descriptions of France, its population, cities, and such things as prosthetic limbs.²⁰

In any case, the separation of French and Illinois villages heralded a separation of jurisdictions. From that point onwards the French indicted that they would deal with crimes committed by their own, and the Illinois would be free to continue in their traditional legal practices so long as this pertained to their people. There remained a grey area as to how a Frenchman who committed a crime against an Illinois, or vice versa, would be treated. In their study of court cases involving Indigenous individuals in Canada, Denys Delâge and Étienne Gilbert have observed:

Il semble [...] qu’en pratique la règle suivante s’applique : les tribunaux français exercent une juridiction sur les Amérindiens et les Français dans *l’espace colonial*, non pas sur les Amérindiens dans les territoires amérindiens, qu’il ne faut pas confondre avec l’espace colonial, bien qu’à cette époque, les frontières n’étaient pas clairement circonscrites.²¹

[It seems that, in practice, the following rule applied: French tribunals exercised their jurisdiction over Aboriginals and French in the *colonial sphere*, but not over Aboriginals in their own territories, which should not be confused with the colonial sphere (even if the limits between these were not clearly established in this period). (my translation)]

¹⁹ “Relation de l’arrivée en France de quatre Sauvages de Missicipi, de leur séjour, & des audiences qu’ils ont eues du Rois, des Princes du Sang, de la Compagnie des Indes, avec les complimens qu’ils ont faits, les honneurs & les presens qu’ils ont reçus, &c.,” *art. cit.*, p. 2831.

²⁰ JR, vol. 68, p. 215. This said, one has to be wary of the image conveyed by the French sources. The Illinois were familiar with prosthetic limbs insofar as they had a long relationship with Henri de Tonti, or “M[onsieur] de Tonty Bras de fer [Monsieur de Tonty of the Iron Hand]” as they sometimes referred to him. De Tonti had lost his left hand to a grenade, and this had been replaced by an iron hook, which allowed him to handle arms with an impressive dexterity, see Edmund Boyd Osler, “Tonty, Henri,” *art. cit.* It follows that some of the incredulity shown to Chicagou’s account, as recounted in the *Jesuit Relations* was a friendly way of cutting him down to size, quite probably a way of maintaining equality. See the practices of the “fiercely egalitarian” !Kung people of the Kalahari, Chris Harman, *A People’s History of the World: From the Stone Age to the New Millenium*, London and New York, Verso, 2008 (1999), p. 7; and the joking relationships in the relationships of another Algonquin-speaking people, the Cheyenne, Max Gluckman, *Politics, Law and Ritual in Tribal Society*, Oxford, Basil Blackwell, 1971, 339 pp.; E. Adamson Hoebel, *The Cheyennes: Indians of the Great Plain*, New York, Holt, Rinehart and Winston, 1978, p. 28.

²¹ Denys Delâge and Étienne Gilbert, “Les Amérindiens face à la justice coloniale française dans le gouvernement de Québec, 1663–1759: I - Les crimes capitaux et leurs châtiments,” *Recherches amérindiennes au Québec*, vol. 33, n° 3, 2003, p. 87 (italicization follows the original).

This could, of course, be mitigated by the political considerations of alliance.²² Of the criminal cases heard at Fort de Chartres in the first half of the 18th century, none concerned Illinois men or women except as witnesses.²³ There was, of course, Pierre Faffard's complaint against his unfaithful wife Margueritte Anskekae in September 1723, mentioned in Chapter 3. That case, however, reinforces the idea of separate jurisdictions given the provincial court had found Margueritte guilty of adultery and ruled that she could be confined in a place of her husband's choosing.²⁴ Nevertheless, the court made no advances on how Margueritte could be confined, and left the question entirely in the hands of Faffard, no doubt content in having respected French law and happy to leave the question of application in the hands of the estranged husband. The politics of the *Pays des Illinois*, though they could not be written into the record, must have left Faffard with the clear understanding that he could only pursue this litigation to the point that it did not cause a diplomatic incident and that it was incumbent on him to negotiate with his wife's Indigenous family. While the wealth and power available to the French Empire was much greater than that the Illinois could muster, as witnessed by Chicagou's transatlantic experience, this was also a mirage of power in the heart of North America. From the French perspective, the *Pays des Illinois* at the beginning of the 18th century was a remote outpost, over a thousand kilometres from the closest seaport that could provide it with a direct link to the metropole. The transporting of goods up and down the Mississippi could be erratic, and things like gunpowder could be in short supply. It was a world in which the

²² An example of this is discussed below, concerning a French servant killed in a quarrel with a Cahokian man and recorded in "M. de Bienville", 14 October 1732, ANOM, COL B, vol. 57, f. 859v.

²³ For a succinct review of these, see Margaret Kimball Brown, *History as They Lived It: A Social History of Prairie du Rocher, Illinois*, *op. cit.*, pp. 42–50.

²⁴ KM, 23:6:2:1; Margaret Kimball Brown and Lawrie Cena Dean, *The Village of Chartres in colonial Illinois, 1720–1765*, *op. cit.*, pp. 813–814 (K-349).

French were establishing their presence, and one in which they were both important allies, individual collaborators, and one power amongst others. This provides a partial picture of the complex political and social relations in the *Pays des Illinois* in 1723.

Historiography of the Perillault case

On the 25th of April 1723 Diron d'Artaguiette, noted in his journal:

Le 25 [avril]. Vers les deux heures de l'après midy le nommé Perilaud commis aux magasins des Illinois donna un coup d'épée au travers du corps du nommé Morin, tambour de la compagnie Dartaguiette pour luy avoir dit quelques paroles, ce Morin mourut un quart d'heure apres avoir recu ce coup et Perilaud fut arrêté.²⁵

[Apr. 25. About 2 o'clock in the afternoon a man called Perilaud, clerk of the Illinois stores, ran a man named Morin, drummer for the company of Artaguiette, through the body with his sword, for having spoken impertinently to him. This Morin died a quarter of an hour after he received the blow, and Perilaud has been arrested.]²⁶

Beside this short entry, the details of the murder can be found in the pardon that was eventually issued for Perillault. It is unfortunate that the witness statements taken in the days following the arrest of Perillault have not survived, we have to rely on the version of events that he supplied when applying for a pardon. This said, the events surrounding the murder are not the main focus of this chapter. Of much greater interest are the speeches of Kaskaskian and Cahokian leaders who came to Fort de Chartres in order to argue that Perillault ought not be executed for this crime. Before discussing the case, it is useful to place this event in its historiographical context.

This retained some attention at the beginning of the 20th century, Clarence Walworth Alvord making a brief reference, in a footnote, to what he wrote was probably

²⁵ "Journal de Diron d'Artaguiette", 25 April 1723, ANOM, COL C₁₃C, vol. 2, f. 247v.

²⁶ Diron d'Artaguiette, "Journal of Diron d'Artaguiette, Inspector General of Louisiana, 1722–1723," *art. cit.*, pp. 75–77.

“the first criminal case ever heard in the Illinois.”²⁷ Joseph H. Schlarman’s *From Quebec to New Orleans: The Story of the French in America* (1929) also provided a partial English translation of the application submitted by a delegation of Kaskaskian Chiefs for clemency in this case, which provided a basis of scholarship on this event for over fifty years.²⁸ The case was considered in Richard White’s *The Middle Ground*. For him it was illustrative of the concept of the “middle ground” of cultural exchange between European and Indigenous societies. The case was considered alongside two other murders that occurred in the *Pays d’en Haut*.²⁹ Gilles Havard also discussed the Perillault case in *Empire et métissages*. Here he wrote that the case was indicative of power relations between the French and Illinois, rather than a middle ground.³⁰ Elsewhere, Havard discussed justice in Indigenous societies in the *Pays d’en Haut*.³¹ The part of this that concerns the Illinois is largely drawn from the Perillault case, or rather the speeches of the Illinois leaders, though the murder of a Seneca Chief by an Illinois man at Michillimakinac is also mentioned. In *L’Épée et la plume: Amérindiens et soldats des troupes de la Marine en Louisiane et au Pays d’en Haut, 1683–1763* (2006), Arnaud Balvay refers to the Perillault case as indicative of Aboriginal conceptions of justice, noting that such petitions to the commanders of French forts were a feature of Franco-Indigenous relations.³²

²⁷ Clarence Walworth Alvord, *The Illinois Country: 1673–1818*, *op. cit.*, p. 155.

²⁸ Joseph H. Schlarman, *From Quebec to New Orleans: The Story of the French in America*, Belleville (Ill.), Buechler Publishing Company, 1929, pp. 225–231.

²⁹ Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, pp. 91–92.

³⁰ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d’en Haut, 1660–1715*, *op. cit.*, p. 400.

³¹ *Ibid.*, pp. 459–72.

³² Arnaud Balvay, *L’Épée et la plume : Amérindiens et soldats des troupes de la Marine en Louisiane et au Pays d’en Haut, 1683–1763*, Québec, Presses de l’Université Laval, 2006, pp. 274–276.

Where this study differs from previous works that have considered these events is partly in the amount of attention these events have been afforded, and also that the Miami-Illinois–and–French dictionaries will be employed to explore how the Kaskaskian and Cahokian leaders expressed their legal culture. This allows a much deeper understanding of their conception of justice, and the various threads that make it up, than has previously been possible. What is proposed does not pretend to revolutionize what can be known about Indigenous approaches to justice. Rather, it will take what have been broad brushstrokes and render a much more detailed picture of how justice was conceived of in the *Pays des Illinois* in the beginning of the 18th century.

The 25th of March 1723

It is Perillault's "Brevet de remission" (that is, his pardon) that details the circumstances surrounding the charges against him. The description of facts is based on his application for pardon, a document that has not survived. However, the author of the "Brevet" appears to have used this to relate the events surrounding Morin's death. They are worth recounting here as they have never been set down before. There does not appear any reason to doubt the facts mentioned, Perillault and the witnesses had been questioned in Fort de Chartres. What can be doubted, however, is Perillault's claim that Morin's death was an accident provoked by the soldier, which was a necessary part of his demand for a pardon. The "Brevet" recounts that, on the 25th of March 1723, Perillault had been in charge of an auction of the goods of a soldier called St François who had recently died.³³ The auction was "au son du tambour au plus offrant [to the sound of the drum and to the

³³ "Brevet de remission pour André Perillault", 15 March 1724, ANOM, COL B, vol. 43, ff. 378–380.

highest bidder (my translation)].”³⁴ The drum, in this case played by Morin, would have been used to announce the auction, as well as was to sound the end of bidding on any given item.³⁵ André Perillault, as clerk for the Provincial Council was in charge of the auction. This role also put him several levels above Morin in the hierarchy of French society in the Illinois. The annual income of the clerk was 600 *livres* in 1724, which placed him on the same level of income as a lieutenant.³⁶ Morin, on the other hand, was a lowly soldier. Life for an enlisted man could be harsh, as a hastily added note to a *mémoire* on the establishment of Louisiana bears witness to, “Il est nesesaire d’envoyer quelques matelas pour les soldats malades et qu’il ayent chacun une couverte en partant [It is necessary to send some mattresses for the ill soldiers and that they all have one blanket to begin with (my translation)].”³⁷ A company of marines consisted of fifty men, in which there would be two *tambours* or drummers, whose status put them a little above the common soldiers.³⁸ Soldiers would earn 110 *livres* a year, though from this would be deducted food and clothing, meaning that their real income would be about 55 *livres*.³⁹ When Morin sounded his drum to close the sale of certain items without Perillault’s instruction to do so, the latter took exception to this. Morin is said to have replied that he did not answer to Perillault and insulted him. The actual insults were not included in the pardon. One can imagine that it was of the same register as that recorded in another murder

³⁴ *Ibid.*, f. 379.

³⁵ René Chartrand, “Tambour battant : La tradition militaire,” *Cap-aux-Diamants*, vol. 5, n° 2, 1989.

³⁶ “Estat des conseillers et employés de plumes, qui doivent estre enteretenus par la Compagnie des Indes a la Louïsiannie”, 8 March 1724, B, vol. 43, f. 375; Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d’en Haut, 1660–1715*, *op. cit.*, p. 78.

³⁷ “Memoire sur l’establissement de la Louisiane”, c. 1720, ANOM, COL C_{13C}, vol. 1, f. 290v.

³⁸ Arnaud Balvay, *L’Épée et la plume : Amérindiens et soldats des troupes de la Marine en Louisiane et au Pays d’en Haut, 1683–1763*, *op. cit.*, p. 38.

³⁹ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d’en Haut, 1660–1715*, *op. cit.*, p. 78.

trial at the Fort de Chartes, some 15 years later. Here two men named Richard mutually accused each other of killing a third, named Henry Catin, with an axe following a violent quarrel. One of the witnesses, Marie Maßennakoe testified that she heard Catin say “Un foutu sot comme toy, je te ferai passer par la fenestre [A damned idiot like you, I’ll throw you out the window (my translation)].”⁴⁰

Perillault was not an officer, and so Morin may have felt at liberty to challenge him. As mentioned above, however, Perillault had the same level of income as a lieutenant, and probably considered that the soldier ought to show him the same respect as he would a military superior. Why Morin chose to antagonize Perillault is not clear. There could have pre-existing ill feeling between the men. Again, 25 March 1723 happened to be a Sunday, so it is possible that one (or both) of the men had been drinking, though no mention of this is made. As the auction progressed, Morin repeated the fault of sounding his drum without the instruction of Perillault. This brought him a further rebuke, and the threat that he would receive a beating from Perillault’s cane if he continued. Morin replied with “des injures encore plus atroces [even more atrocious insults (my translation)],” which so enraged Perillault that he drew his sword in order (according to him) to use the flat of it to beat Morin on his back. At this point we are told that “le d[it] Morin s’avança sur lui comme un furieux, avant que le suppliant eut le tem[p]s de la baisser, ou de se retirer en arriere, et en receu un coup dans la mamelle droite [the said Morin rushed at him in a fury and before the suppliant had the time to lower his sword, or to retreat, he received a blow to his right breast].”⁴¹ While Perillault was careful to indicate

⁴⁰ KM, 38:12:24:3(4). Marie Maßennakoe (also spelled as Macouinuicoues and Maßeenci8ois) was married to Charles Huet dit Dulude in 1738, and is therefore referred to as Mme Dulude in the KM. She died in October 1739, KM, 39:10:19–20.

⁴¹ “Brevet de remission pour André Perillault”, ANOM, COL B, vol. 43, f. 379.

that this was an unfortunate accident in his appeal, it is clear that this was not a view shared by Morin's commanding officer, Pierre d'Artaguiette d'Itouralde (the younger brother of Bernard Diron d'Artaguiette, the Inspector General of Louisiana who happened to be visiting the *Pays des Illinois* in 1723) as he applied to his commander, De Boisbriant, to testify against Perillault.⁴²

The French system of justice

Even in one of the more remote corners of the French overseas empire, the mechanisms of the king's justice were put into action. On the 27th and 28th, witnesses were called and examined.⁴³ Their statements would have been recorded, like that of Marie Maßennakoe, mentioned above. The Kaskaskia Manuscripts have no record of these, however, and they appear to have been lost. This was followed by a formal interrogation of the accused:

29. Au matin M[onsieu]r de L'isle faisoient fonction du Major au d[it] poste en qualité de procureur du Roy a vagué aux interrogatoires du Criminal.⁴⁴

[Apr. 29. In the morning, M. De Lisle, performing the functions of major of the above-mentioned post, in the capacity of King's procureur, conducted the examination of the accused.]⁴⁵

This followed the inquisitorial system of justice, that is to say one based on an inquest conducted, in the *Pays des Illinois*, by a specially designated officer.⁴⁶ The procedure

⁴² "Journal de Diron d'Artaguiette", ANOM, COL C_{13C}, vol. 2, f. 247v.

⁴³ *Ibid.*

⁴⁴ *Ibid.*, f. 248r.

⁴⁵ Diron d'Artaguiette, "Journal of Diron d'Artaguiette, Inspector General of Louisiana, 1722–1723," *art. cit.*, p. 75; see also Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, p. 91.

⁴⁶ James Pritchard, *In Search of Empire: The French in the Americas, 1670–1730*, Cambridge, Cambridge University Press, 2004, p. 253; Éric Wenzel, "Justice et culture militaires dans le Pays des Illinois au XVIII^e siècle à travers une affaire de desertion (1752)," *Revue d'histoire de l'Amérique française*, vol. 68, n° 1–2, 2014, p. 94.

employed “emprunte beaucoup à l’esprit de la Grande Ordonnance criminelle de 1670 qui structure les procès criminels dans la France moderne et, en principe, dans les colonies sous tutelle directe de la monarchie [borrowed much from the spirit of the Criminal Ordinance of 1670 which provided order for criminal trials in modern France and, in theory, those colonies under the direct control of the monarchy (my translation)].”⁴⁷ While linked to the metropole, this was justice conducted at the margins of the French Empire by soldiers not lawyers. As such, principles of military law would also be drawn on in the administration of justice.⁴⁸ One aspect of this was that the death penalty would be decided on by a war council composed of the same group of officers to whom the Illinois leaders delivered their speeches.⁴⁹

As the murder had occurred in front of witnesses, the facts of the case were not open to dispute, beyond Perillault’s claim that Morin had impaled himself on his sword. Things would have looked bleak from Perillault’s point of view, though his fortunes were about to change. The chain of legal instances that André Perillault was caught in began in the Provincial Council of which he was clerk. Headed by the Commandant of Fort de Chartres and staffed by military officers, the court was responsible for both civil and criminal cases, the former being the majority that can be seen in the Kaskaskia Manuscripts. Cases could be referred, and appeals be made, to the Superior Council (*Conseil supérieur*) in New Orleans. Above this lay the Ministry of the Marine, overseeing the colonies, and the Royal Government in Versailles.⁵⁰ It is to the latter that Perillault

⁴⁷ Éric Wenzel, “Justice et culture militaires dans le Pays des Illinois au XVIII^e siècle à travers une affaire de desertion (1752),” *art. cit.*, p. 91.

⁴⁸ *Ibid.*, pp. 91–92.

⁴⁹ *Ibid.*, p. 95; Alain Berouche, *Marine et justice : La justice criminelle de la marine française sous l’ancien régime*, Rennes, Presses universitaires de Rennes, 2010, ch. 4, n° 3.

⁵⁰ Laurie M. Wood, *Archipelago of Justice: Law in France’s Early Modern Empire*, New Haven (Conn.) and London, Yale University Press, 2020, p. 13.

would eventually appeal for a pardon, one that was granted and for which Perillault could thank the Kaskaskian and Cahokian leaders who had petitioned for his life.⁵¹ Perillault submitted this to the Provincial Council on the 15th of March 1724, thus closing a circle of justice that crossed the Atlantic.⁵² He then continued to work as the clerk of the court for at least two years.⁵³

That Perillault was pardoned reflected, in part, the weakness of the French position in the *Pays des Illinois*. No matter how closely the officers tried to follow French law, the solidity of French power at Fort de Chartres was weaker than they would have liked. As has been mentioned, it was one of the remotest of France's colonies, a thousand kilometres inland from New Orleans. The Fort itself was a new addition to the turbulent politics of the *Pays d'en Haut*, as illustrated on the 30 April 1723 when Diron noted that "Le même jour il a relaché un party de 200 guerriers Illinnios qui aloient en guerre sur les Renards [The same day there arrived a party of 200 Illinois warriors, who were on their way to make war upon the Fox]." ⁵⁴

Speeches of the Kaskaskian and Cahokian delegations

Diron d'Artaguiette recounts both the murder of Morin and the subsequent events in his journal. The entries are brief, but allow the reconstruction of the sequence of events with greater clarity than in most other cases of diplomatic exchanges following violent deaths in the *Pays d'en Haut*. Maintaining good relations with their Indigenous allies was a necessity for the French officers, though one that had to be balanced against imperial

⁵¹ "Brevet de remission pour André Perillault", ANOM, COL B, vol. 43, p. 378.

⁵² KM, 24:3:15:1.

⁵³ See KM, 26:10:8:2 and KM, 33:7:15:1.

⁵⁴ "Journal de Diron d'Artaguiette", ANOM, COL C_{13C}, vol. 2, f. 248r; Diron d'Artaguiette, "Journal of Diron d'Artaguiette, Inspector General of Louisiana, 1722–1723," *art. cit.*, p. 75.

interests. Following the interventions of the Kaskaskian leaders, on 3 May, Fort de Chartres received a second delegation, this time from Cahokia:

11. nous sommes partys de Cascakias vers le midy et sommes ariver vers les 5 heures du soir au Fort de Chartres ou nous trouvames une bande de sauvages du village des Cahoskias qui estoient venus demander le grace du S[ieur] Perilaud. L'on trouvera cy joint sur une feuille de papier leurs harangues et les reponses que M[onsieu]r Boisbriant y a fait.

12. Le cheff des sauvages des Cahoskias me presenta un colier de porcelaine en me souhaitant toutte sorte de Bonheur et que je trouverasse un beau chemin et sans ennemys.⁵⁵

[May 11. We left Cascakias about noon and arrived about 5 o'clock in the afternoon at Fort de Chartres, where we found a band of Indians from the village of the Choaskias, who had come to ask for the pardon of Sr. Perilaud. There will be found on a sheet of paper affixed hereto their harangues and the replies which M. Boisbriant made to them.

May 12. The chief of the Indians from the Cahoskias presented me with a porcelain necklace, at the same time wishing me all sorts of happiness, and a fine journey and one free from enemies.]⁵⁶

It is interesting to note that between the departure of the Cahokian delegation (12 May) and the release of Perillault (31 May), witnesses continued to be questioned (13 and 14 May).⁵⁷ This may indicate that the French commander, De Boisbriant, had yet to make his decision concerning Perillault's case and that the impetus to follow French legal procedure continued despite the very strong representations of the Illinois leaders, and their retinues. This said, the fact that Perillault was confined for a further two weeks may also have been to avoid showing weakness by responding too quickly to the delegations (and incidentally to keep Perillault in suspense as a form of retribution). D'Artaguiette's entry for 31 May simply reads, "Le nommé Perilaud qui avoit tué ce

⁵⁵ "Journal de Diron d'Artaguiette", 1 September 1722 to 10 September 1723, ANOM, COL C_{13C}, vol. 2, ff. 249r–250v.

⁵⁶ Diron d'Artaguiette, "Journal of Diron d'Artaguiette, Inspector General of Louisiana, 1722–1723," *art. cit.*, p. 76.

⁵⁷ "Journal de Diron d'Artaguiette", ANOM, COL C_{13C}, vol. 2, ff. 249r–250v.

tambour a eu son elargissement [The man called Perilaud, who killed the drummer, has been set at liberty].”⁵⁸

In any case, the Cahokian delegation had come from over twice as far as the Kaskaskian delegation, the distance between Cahokia and Fort de Chartres being roughly 90 km (about 55 miles) both by land and along the Mississippi (see Appendix B). This was clearly an important diplomatic undertaking, as can be seen from the present of a wampum belt to D’Artaguette, who was charged with bringing the news of the discussions of the delegations to New Orleans. These speeches are recorded in a remarkable document, offering a rare window through which can be seen the conceptual world of the Illinois. It is a window in which the image has been darkened by two sheets of glass, those of the translator and the transcriber. The Kaskaskian delegation’s speeches were translated by a “Blanc collet [white collar]” or Seminary priest, though there is no record of who translated the speeches of the Cahokian delegation.⁵⁹ It may have been François Cecire *dit* Bontemps, the husband of Marie Ouapankiacakoues (or Saka8ie).⁶⁰ In any case, these speeches were recorded with explanatory notes and they have been preserved in the archives (see Appendix C). They have never been transcribed and only that of the Kaskaskian delegations has been (partially) translated, so they have been included in Appendix D.⁶¹

⁵⁸ *Ibid.*, f. 250v; Diron d’Artaguette, “Journal of Diron d’Artaguette, Inspector General of Louisiana, 1722–1723,” *art. cit.*, p. 77.

⁵⁹ “Les Chefs du Village des Kaskakias”, ANOM, COL C_{13A}, vol. 7, f. 321r.

⁶⁰ Cecire was retained as an interpreter for the Compagnie des Indes and was present at Fort de Chartres in 1723, where he was granted land by the Compagnie in 1724 and subsequently increased his holdings at an auction presided over by Perillault (by then rehabilitated thanks to his pardon) in 1725, see KM, 23:9:10:4; 24:5:2:2; 25:9:17:1 and 33:5:15:1.

⁶¹ From hereon these will be simply referenced as ANOM, COL C_{13A}, vol. 7. The folio numbers are provided in the Appendix D for ease of consultation.

All the leaders spoke at the two conferences, with the exception of Mamentouensa, who remained silent as far as can be seen in the records. This is telling, as Mamentouensa held a position of considerable importance in the French and Illinois alliance, and can be termed a Paramount Chief (though this position seems to have diminished in importance following the disintegration of the Grand Village of the Kaskaskias). His silent presence underlines the political aspect of the meeting. This was not simply a petition for the life of Perillault, but also a debate over how justice ought to be administered in the *Pays des Illinois*. This said, the French appear to have been swayed by the political considerations of their alliance with the Illinois, as Gilles Havard has noted.⁶² In this case, the Illinois would not have taken up arms if Perillault had been executed, even if he was much liked. However, in cases directly concerning Illinois individuals this was a possibility. In 1705 a French soldier named La Giroffé was killed by a Peorian man. Here the Peorian Chief Mantouchensa, who initially endeavoured to find a diplomatic solution to the situation, eventually turned against the French and instigate a wave of anti-French violence that would lead to Father Gravier's wounding and subsequent death (events that resulted in the distancing of the Peorias from the French alliance).⁶³ Similarly, in 1732, a Cahokian man killed a French servant to the missionaries, an event recounted in a letter from the minister to Bienville, 14 October 1732:

M[onsieu]rs Perrier et Salmon m'ont écrit par une lettre du 17 juillet d[en]ier qu'un françois qui estoit au service des Missionnaires des Illinois a este tue par un Caokias dans une dispute particulier, mais que dès le lendemain de ce meurtre les chefs de la nation ont amené le meurtrier au S[ieu]r de St Ange en demandent grace pour luy, et que sur les protestaons qu'ils ont faites que la nation n'avoit aucune part à ce coup cet officier a crû n'en pas demontrer vengeance. La conduit de S[ieu]r de St Ange a este d'autant plus sage dans cette occasion que le meurtre a esté commis dans un desmesle particulier dans lequel le

⁶² Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, op. cit., p. 400.

⁶³ *Ibid.*, pp. 477–478.

françois avoit le premier frappé, et que d'ailleurs il eu esté a craindre que s'il avoit exigé la punition de ce Sauvage il n'eut soulevé toute la nation.⁶⁴

[Monsieurs Perrier and Salmon wrote to me on the 17th of July last to inform me that a Frenchman in the services of the Missionaries to the Illinois had been killed by a Cahokian in a private argument. The day following this murder, the chiefs of the nation brought the murderer before Sieur de St Ange and asked for his pardon. Given their assertions that the nation was not involved, this officer decided not to call for vengeance. The conduct of Sieur de St Ange was particularly wise given that in this instance the murder was committed in a personal quarrel in which the Frenchman had struck first, and that he had reason to fear that had he insisted on punishing this savage he would have caused the whole nation to rise up. (my translation)]

Unlike this case, however, that of Perillault does not directly involve an Illinois individual.

This means that the positions put forward by the Illinois leaders were not coloured by a desire to find an accommodation for one of their own, and that they can more comfortably be seen as statements of principle than if this had not been the case.

Kinship networks

Before considering the speeches themselves, it is important to highlight the kinship networks that were in play both among the French and Illinois. This is an important feature of life in the *Pays des Illinois*. As has been mentioned in Chapter 3, the Illinois leader Mamentouensa intervened in 1730 to save the life of one Jean Baxé, a slave of African origin. The connections between the two cases are intriguing – though they remain speculative. It seems that kinship played a role, at least between the Illinois and Paul and Marie Rose Tessier, through Catherine Marie 8abanquikois. Baxé may well have had friendly relations with the Illinois as well, as seems to have been the case for André Perillault, though the only evidence for this is Mamantouensa's intervention to save his

⁶⁴ "M. de Bienville", 14 October 1732, ANOM, COL B, vol. 57, f. 859v. This refers to Robert Groston de St. Ange, commander of Fort Chartres in 1730–33.

life some seven years after De Boisbriant had stated categorically that “Si jamais, mes enfants, quelque françois est detenu aux fers, ne venés pas le delier, vous ne reussirés pas [If ever again, my children, some Frenchman is held in irons do not come to release him, you will not succeed].”⁶⁵ A generation later, in 1751–52, kinship relations played a key part in the Illinois securing the release of a Piankeshaw Chief called Le Loup, who was held in Fort de Chartres by the French who accused him of orchestrating an attack on the French. Le Loup “was probably a member of the Rouensa family, but he also had a brother-in-law and father-in-law – Voitquoitigana and Chenguikataka – who were leaders in the Piankeshaw rebellion.”⁶⁶ In working to free Le Loup, Illinois delegations employed the same rhetorical forms as can be seen in the speeches given for André Perillault.⁶⁷ This was because these were established forms of discourse used in maintaining relations and averting conflict. For the Illinois, leaders had a clear role in keeping peace between members of the same alliance, members who were usually related to each other by blood. The gloss for the term «Matchiapicat8a» indicates this, “ancestre auteur de la famille. it. il va faire la paix, alliance, il va l apporter. [ancestor, originator of the family. *also* he is going to make peace, an alliance. he is going to bring it.]”⁶⁸ This mirrors the entry for «ni8e8ingamihic8amina», for which the gloss is “on nous tue qq.un de la famille [They have killed one of our family].”⁶⁹ Murder was a crime that risked creating a spiral of violence that risked tearing the social fabric, as Perrot made clear:

Si les parents du mort ne vouloient pas entendre du tout parler de satisfaction et qu'ils fussent dans la resolution d'en tirer absolument

⁶⁵ ANOM, COL C_{13A}, vol. 7, f. 323r.

⁶⁶ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, *op. cit.*, p. 184.

⁶⁷ For a summary of this case, see M. J. Morgan, “Indians on Trial: Crime and Punishment in French Louisiana on the Eve of the Seven Years’ War,” *art. cit.*

⁶⁸ LG, 260:14.

⁶⁹ LB, 406:60.

vengeance, plusieurs anciens interviendroient avec des present pour se rendre mediateurs. Ils representeroient qu'on se mettroit à la veille d'Avoir guerre avec des suites très facheuses, et ayant prié les affligés d'avoir pitié de leurs terres, ils font connoître que la guerre estant une fois allumée, il n'y aura plus de seureté en aucun endroit, que bien des personnes innocentes seront sacrifiées, que les guerriers frapperont sans egard sur tous ceux qu'ils rencontreront dans leur marche en guerre, qu'il n'y aura plus ny paix ny assurance entre les voysins, et que'enfin l'on verra la desolation si grande que le frere tüera son frere, le cousin son cousin, et qu'on se detruiroit soy mesme, car on est mariés et liés si fortement ensemble qu'on ne se compte plus du village de sa naissance, mais de celuy où l'on est estably.⁷⁰

[If the relatives of the dead man should be unwilling to hear any talk of satisfaction, and should take the resolution of positively obtaining vengeance for their loss, several of the old men would intervene with presents, in order to become mediators. They would argue that the people were placing themselves on the verge of having a war, with the most grievous consequences, and, entreating the afflicted ones to have pity on their land, would warn them that when war was once kindled there would no longer be safety in any place; that many innocent persons would be sacrificed; that warriors attack indiscriminately all whom they encounter while on the warpath; that there would be no longer any peace or confidence between neighbors; and that, in short, they would behold desolation so great that brother would slay brother and cousin slay cousin, and that they would be their own destroyers; for as the ties of marriage and alliance are so strongly knit together, each man considers himself a member no longer of the village where he was born, but of that one in which he has settled.]⁷¹

The French also had extensive kinship networks in the *Pays des Illinois*, both with the Illinois and amongst themselves.⁷² For this case, it is the close kinship relations between some of the French officers present at Fort de Chartres that is of particular interest. Pierre Dugué de Boisbriant, for example, was originally from Montreal and a cousin of Jean-Baptiste Le Moyne de Bienville, the governor of Louisana in 1723.⁷³ More notably, Bernard Diron d'Artaguiette, who delivered the record of the Illinois leaders' speeches to

⁷⁰ Nicolas Perrot, *Mémoire sur les moeurs, coustumes et relligion des sauvages de l'Amérique septentrionale*, op. cit., pp. 293–294.

⁷¹ Nicolas Perrot, "Memoir on the Manners, Customs, and Religion of the Savages of North America," art. cit., p. 140.

⁷² For an overview of these, see Robert Michael Morrissey, "Kaskaskia Social Network: Kinship and Assimilation in the French-Illinois Borderlands, 1695–1735," *William and Mary Quarterly*, vol. 70, n° 1, 2013, pp. 103–146.

⁷³ Robert Michael Morrissey, *Empire by Collaboration: Indians, Colonists, and Governments in Colonial Illinois Country*, op. cit., p. 105.

New Orleans, was born into a wealthy family in southern France and the second of three brothers who would leave their mark on the history of French Louisiana. With him at Fort de Chartres in 1723 was his younger brother, Pierre d'Artaguiette d'Itouralde. Pierre had arrived in Louisiana in 1717 and was quickly promoted to captain. He was serving under De Boisbriant at Fort de Chartres (which he would eventually command), and the unfortunate Morin was of his company, as has been mentioned.⁷⁴ Their elder brother, Jean-Baptiste-Martin d'Artaguiette d'Iron, was particularly influential as regards French Louisiana. His portrait, painted by Alexis Grimou in 1720 shows a wealthy, refined and fashionable man⁷⁵ This image is also indicative of the success of the elder D'Artaguiette brother, for such portraits were luxury items. He had been named *Commissaire général* in 1707 and spend four years in the colony.⁷⁶ After his return to France, his economic connection to the colony continued through the *Compagnie des Indes*, of which he was director between 1717 and 1721, as well as financial officer, or *syndic*, until 1731.⁷⁷ Diron had, then, a close ally in the *Compagnie des Indes*, one who had connections in the highest spheres of French politics.⁷⁸

There are no such portraits for those who were involved in the events at Fort de Chartres, though images painted over 100 years later by George Catlin can give us an idea of how the Illinois leaders could have appeared. In Figure 4.1 one can see the 1830 portrait titled “Pah-mee-ców-ee-tah, Man Who Tracks, a Chief,” probably painted at Fort

⁷⁴ David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, p. 59.

⁷⁵ Melissa Percival, “Taste and Trade: The Drinking Portraits of Alexis Grimou (1678–1733),” *The Art Bulletin*, March 2019, p. 20. The portrait is located in the Musée Bernard d'Agesci, Niort, France.

⁷⁶ *Ibid.*

⁷⁷ Haudrère Philippe, “L'origine du personnel de direction générale de la Compagnie française des Indes, 1719–1794,” *Revue française d'histoire d'outre-mer*, vol. 67, n° 248–49, 1980, p. 340.

⁷⁸ *Ibid.*, p. 340.

Leavenworth in 1830, as well as a full-length sketch.⁷⁹ The subject was described by Catlin as an “elegant amiable young man was Chief of the [Peoria] tribe and celebrated as an Advocate of Temperance.”⁸⁰ These qualities certain concord with those expected of a Chief, though Catlin’s work has to be understood as capturing a moment from a world in transition. By this time most of the Illinois had moved west of the Mississippi and the political independence they had been able to maintain in the 18th century had been dramatically eroded. These images, alongside the much earlier drawing by Louis Nicolas (see Figure 2.1), can suggest an image of an Illinois Chief in the early 18th century.

Figure 4.1. Chief Pah-mee-ców-ee-tah⁸¹



⁷⁹ See George Catlin, *Letters and Notes on the Manners, Customs, and Condition of the North American Indians*, vol. 2, New York, Wiley and Putnam, 1842, p. 101.

⁸⁰ George Catlin, *Souvenir of the N. American Indians as they were in the Middle of the Nineteenth Century*, *op. cit.*, p. 71.

⁸¹ Left image: George Catlin, “Pah-mee-ców-ee-tah, Man Who Tracks, a Chief,” Washington (D.C.), Smithsonian American Art Museum, c. 1830, Object number 1985.66.251 (public domain, Smithsonian American Art Museum, americanart.si.edu); right image George Catlin, *Souvenir of the N. American Indians as they were in the Middle of the Nineteenth Century*, *op. cit.*, p. 71 (public domain; source New York Public Library, digitalcollections.nypl.org).

Kinship, then, was a key element to both French and Illinois legal cultures at this period. For the latter, the family was the fundamental legal unit, as it was a victim's relations who would ensure that sanctions were applied or who had to be placated by the involvement of legal authorities. Turning now to the speeches surrounding the fate of André Perillault. The analysis of these has been split into three broad categories. The first considers the sacred aspect of law, a point raised in Chapter 3. The second reviews the connections between the concepts of murder and war. Finally, the act of resolution known as "covering the dead" will be considered. These aspects of the Illinois legal culture will be connected to the four threads of the concept of law (authority, universality, social obligations, and sanctions), which will be presented in a series of conceptual network models at the end of this chapter. Before addressing these, the extent to which the Illinois and French had a shared vocabulary with which to discuss justice needs to be considered. While some concepts, such as empire, «ic8e8ita», or prosthetic limbs, had no translation equivalent, this is not the case for concepts connected to jurisprudences. A review of 18th-century Miami-Illinois terms connected to justice and similar French concepts reveals commonalities. These has been compiled in Table 4.1. Here 18th-century Miami-Illinois terms connected to justice are presented with the original gloss and placed alongside a connected 18th-century French term (with the modern English equivalent). It should be noted that these should not be taken as translations, but rather as concepts belong to the same broad family of ideas. Certain terms, like *cas royal* can be seen as distant cousins of the Miami-Illinois word.

Table 4.1. Comparison of concepts connected to justice

<i>18th-century Miami-Illinois term (and source)</i>	<i>French or Latin gloss [and translation]</i>	<i>Similar 18th-century French term⁸²</i>	<i>Modern English translation of French term</i>
Michicater8a (LG, 287:34)	homme cruel qui tûe, brule, mange l'ennemy. boureau [cruel man who kills, burns, eats the enemy. Executioner]	Supplice	Aggravated execution
Ni8ic8akisi (LG, 388:28)	je suis taché de sang coupable de meurtre, auteur de la guerre [I am spotted with blood, guilty of murder, the one who started the war]	Culpabilité	Guilt
Ni8ic8akisis8 ⁸³ (LG, 388:27)	je ne suis pas taché de sang, coupable de meurtre [I am not spotted with blood, not guilty of murder]	Innocent	Innocence
Nechi8eta (LG, 388:30)	assassin meurtier vide Ninessa [assassin, murderer <i>see</i> ⁸⁴ 'Ninessa']	Assassinat prémédité ou meurtre de guêt-apens	Murder (first degree)
		Homicide simple	Murder (second degree)
Nip8nikiter8ta8a (LG, 487 :7)	je luy pardone, cesse d'estre faché contre luy [I forgive him, stop being angry with him]	Rémission	Pardon
chec8eri8i8sse8e8ata (LB, 290:82:1)	celui qui meurtrit [(one) who murders (my translation)]	Coupable	Perpetrator
anarei8tehe8a kiminaji8ni echitehe8a (LB, 290:80:2)	il ne pense qu'au m[eurtre]. [he thinks only of murder]	Assassinat prémédité	Premeditation
8ic8akissen8i (LG, 388 :26)	chemin gasté par un meurtre, geurre declarée [path spoiled by a murder, a declared war]	Cas royal	Social disorder

⁸² These terms have been drawn from Joseph-Nicolas Guyot, *Répertoire universel et raisonné de jurisprudence civile, criminelle, canonique et bénéficiale*, *op. cit.*

⁸³ Note that here the '–s8' ending indicates the negation of the previous term (Ni8ic8akisi), see David J. Costa, *The Miami-Illinois language*, *op. cit.*, pp. 334–352.

⁸⁴ Latin terms in the Miami-Illinois–and–French dictionaries have been translated and italicised in the English translation.

While these are by no means direct equivalents, they provide evidence that each side could understand the other – even if they disagreed about the principles involved. There is also a clear gulf between their legal cultures, which can now be explored, beginning with the role of the sacred in law.

The sacred aspect of law

The events of April 1723 were, as has been mentioned, an internal French affair and dealt with under the rules of French justice. The arrival of the Kaskaskia delegation brought things into a completely different arena. This transition has to be understood not only as one of principles of law – though this is important – but also of one of ritual, of sight and even smell. This was an emotionally charged moment in which French and Indigenous symbolism was called on.

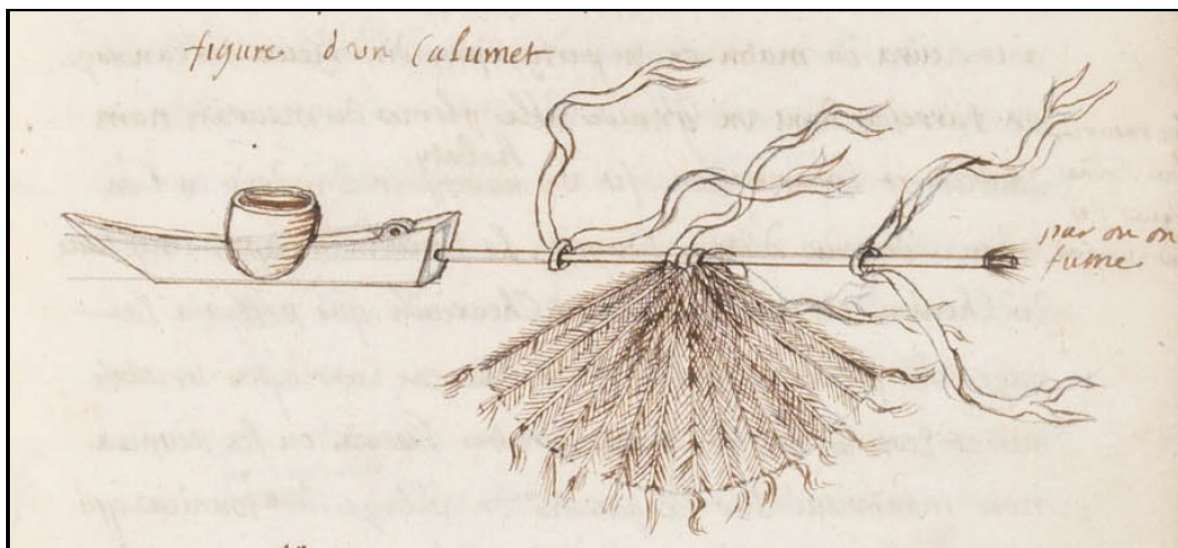
The Calumet

The principal object was the Calumet, or Sacred Pipe, the key ritual object in diplomatic relations in the *Pays d'en Haut*, whose smoke would also heighten the sensory experience of proceedings. Calumets were highly decorated for ceremonial use, which can be seen in the ornamentations on the pipe being smoked by an Illinois Chief in Figure 2.1, as well as in the feather and ribbon decorations on late 17th century sketch shown in Figure 4.3 by Jean-Baptiste Minet, who accompanied the Cavelier de La Salle on his explorations of the Mississippi. The Kaskaskian delegation presented three Calumets to the officers, that of Cahokia five.⁸⁵ This presentation was connected to the Calumet Dance, which the missionary Claude Allouez noted as being particular to the Illinois “ils pratique

⁸⁵ ANOM, COL C_{13A}, vol. 7, ff. 319r and 322r.

une sorte de dance, qui leur est toute particuliere, ils l'appellent la dance de la pipe à prendre tabac [They practice a kind of dance, quite peculiar to themselves, which they call 'the dance of the tobacco-pipe.']”⁸⁶ According to his account, dancers would take turns, one person dancing after another. He likened this to a “balet de posture,” an image that calls to mind the formality of French operatic performances of this period.

Figure 4.2. Sketch of a Calumet⁸⁷



D'Artaguiette described the movement of the calumet (and dancer) as going backwards and forwards, and side to side as the dancer drew forward and retreated in a solemn ritual. The veneration due to the Calumet by the Illinois has some similarities to that shown by the French to the Eucharist. On 27 May 1723, the troops formed in lines as the Blessed Sacrament was paraded through the streets on the feast of Corpus Christi. The association of the term <kikint8ragane> with both law and the body of Christ, in its use as

⁸⁶ JR, vol. 51, pp. 46-47.

⁸⁷ Jean-Baptiste Minet, “Voilage fait du Canada par dedans les terres allans vers le sud dans l’année 1682”, Library and Archives Canada, 1684–85, p. 29 (public domain; source Library and Archives Canada, <<http://central.bac-lac.gc.ca/.redirect?app=fonandcol&id=2395451&lang=eng>>).

the name for the Eucharist, appears to put this and the Calumet in similar conceptual territories.⁸⁸

One of the most complete descriptions of the Calumet's ritual function is given by Jacques Gravier in a letter written in 1700:

Puisque J'ay fait mention cy dessus du Calumet, vous serez bien aise que je vous en dise icy quelque chose. Il n'est rien parmi les Indiens ni de plus mystereux, ni de plus recommandable. on ne rend pas tant d'honneur aux couronnes et aux sceptres des Roys, qu'ils luy en rendent. Il semble qu'il est le Dieu de la Paix et de la guerre, l'arbitre de la vie et de la mort. C'est assez de le porter et le faire voir pour marcher en assurance au milieu des Ennemis qui dans le fort du Combat mettent bas les armes quand on le montre.

[Since I have spoken above of the Calumet, you will be pleased if I here tell you something about it. There is nothing among these Indians that is more mysterious or more revered. No such honors are paid to the crowns and scepters of Kings as those that they pay to it. It seems to be the God of Peace and war, the arbiter of life and of death. It suffices for on to carry and to show it, to walk in safety in the midst of Enemies, who in the hottest of the Fight lay down their weapons when it is displayed.]⁸⁹

The principle of the Calumet being a symbol of peace has already been seen in Chapter 1 in relation to Marquette's voyage of 1673. Gravier notes here that the Illinois had given the Calumet to him specifically in order to guarantee his safe passage. The Calumet had a double nature, that of life and death, peace and war. Again, there is a similarity with the Eucharist, or Blessed Sacrement, as can be seen in the hymn *O salutaris Hostia* (the translation of which into Miami-Illinois was mentioned in Chapter 2). Here the English version was rendered as:

O saving Victim,
who art continually sacrificed.
And who givest life, thou by whom we enter into Heaven, we are all
tempted;
do thou strengthen us.⁹⁰

⁸⁸ LB, 212:30 gives <kit8ekikint8ragane> for "l'eucharistie," where the suffix <kit8e-> indicates something precious or of high value, see for example LB, 212:63.

⁸⁹ JR, vol. 65, pp. 122–123.

⁹⁰ JR, vol. 67, pp. 146–149.

This similarity is, of course, due to the sacred nature of life and death. The Calumet acted as arbitrator of war and peace, the Eucharist as a promise of life beyond death. In both the ritual of the Calumet Dance and that of Holy Communion the emotional aspect of this is brought to the fore (not to mention the psychosocial aspects of both tobacco and wine). The solemnity described above was a genuine appeal to emotion, to the sympathy of the audience. The transcriber notes somewhat dismissively of this that it was a “*Ceremonie qui chez eux s’appelle priere, et supplique, et avec laquelle ils pretendent pouvoir tous demander, avec la confiance de n’estre presque jamais refusé. [A ceremony which they call prayer and supplication, and by means of which they feel they can ask anything, with the confidence that they will scarcely ever be refused.]*”⁹¹ Yet the fact that he felt it important to note that it was rarely refused denotes its central importance as a ritual in the *Pays d’en Haut*. As mentioned, the Calumet had two natures, as Gravier explained:

Il y a un Calumet pour la Paix, et un pour la guerre, qui ne sont distingues que par la Couleur des plumages dont ils sont ornés. Le Rouge est marque de guerre, ils s’enservent encor pour terminer leurs differens, pour affermir leurs alliances, et pour parler aux Etrangers.

[There is one Calumet for Peace and one for war, and they are distinguished solely by the Color of the feathers that adorn them. Red is the sign of war. They use it also to terminate their quarrels, to strengthen their alliances and to speak to Strangers.]⁹²

The symbolism of the colour red was of great importance. It played a key part in the rhetoric surrounding questions of murder, vengeance and war. It also appears to have had a broader significance connected to the question of protection. Take, for example, the term <Mic8ac8nagane> “baston rougi et jonglé pour garder le champ. superstition [stick reddened and shamanized in order to guard the field. Superstition].”⁹³ This is an aspect of

⁹¹ ANOM, COL C_{13A} vol. 7, f. 319r.

⁹² JR, vol. 65, pp. 122–123.

⁹³ LG, 289:11.

Illinois culture that is only found in the Miami-Illinois–and–French dictionaries. Other French sources do not mention this practice, though one can see a possible echo in the red pole that could be seen in 1700, further south, marking the limit between the territories of the Houmas and Bayagoulas, and to which the city of Baton Rouge owes its name.⁹⁴ A superstition, according to the Jesuits, but no doubt one that must have reflected a set of social values. The Illinois Medecine Man would have been no more able to protect the fields from pests or theft than the French clerics and officials who in the 16th century put vermin on trial, yet there would be a social value to these actions, a collective appeal to the supernatural.⁹⁵

Returning to the Calumet, its ritual nature is of interest in the administration of justice. Of this, its sensory aspect is the one that is lost in the archives. The colours of the feathers that adorned it, maybe yellow or green, and the additional colours along the stem are not called to mind in most of the descriptions of the Dance of the Calumet, nor is the smell of pipe tobacco.⁹⁶ These had important sacred significance, however, and the Miami-Illinois word for the calumet «ap8agana» referred to the feathers, the modern morpheme for which is –aankan.⁹⁷ For the French officers in the *Pays des Illinois* this was a vivid experience, but also an irrelevant detail to include in their reports to their superiors.

⁹⁴ Pierre Margry, *Découvertes et établissement des Français dans l'Ouest et dans le Sud de l'Amérique Septentrionale, 1614–1754*, vol. 5, Paris, D. Jouaust, 1883, p. 395.

⁹⁵ Such cases attracted some scholarly attention in the early 20th century, see for example, Edward Payson Evans, *The Criminal Prosecution and Capital Punishment of Animals*, New York, E. P. Dutton, 1906, 384 pp.; for a more recent study, see David Chauvet, *La personnalité juridique des animaux jugés au Moyen Âge : XIII^e–XVI^e siècles*, Paris, L'Harmattan, 2012, 155 pp.

⁹⁶ JR, vol. 65, pp. 124–125.

⁹⁷ LG, 50:27, for the modern speech form of feather see ILDA for «8apankiangana» at LB, 306:20. The etymological connection between these terms is taken from Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, op. cit., p. 31.

Alongside the red Calumet of war, the instrument served as a symbol of peace, as Gravier recounted:

Ils en font état particulièrement parcequ'ils le regardent comme le Calumet ou la Pipe du soleil. Et defait ils le lui presentent pour fumer quand ils veulent du Calme, de la pluye, ou du beau temps. Ils font scrupule de se baigner au commencem[en]t. des Chaleurs, ou de manger des fruits nouveaux qu'apres avoir dansé le calumet, c'est a dire le Chef le tenant en main chantant des airs auxquels les autres repondent en dansant et fesant des gestes compassés au son de certains Instruments facon de petits Tambours.

[They esteem it chiefly because they look upon it as the Calumet or Pipe of the sun, and, in fact, they offer it to the sun to smoke when they wish to obtain Calm, or rain, or fine weather. They scruple to bathe at the beginning of the Hot weather, or to eat new fruit, before they have danced the calumet – that means that the Chief, holding it in his hands, sings airs to which the others respond, while dancing and making measured gestures to the sound of certain Instruments shaped like small Drums.]⁹⁸

It was in this role that the Calumet served at Fort de Chartes. It acted as an indicator of the social obligations between the murder and kin of the deceased, in this case symbolically the French officers. Here we can see one of the key attributes of the concept of law being raised at the beginning of the meeting.

Marie Rokipiekoüé speech

The sacred nature of law, which builds on the thread of social obligations, can be seen in the shortest speech in the record, that given by Marie Rokipiekoüé.⁹⁹ While it is brief, its concision envelopes the most important points of these debates:

Mes Peres qui estes mes chefs, ecoutés moy, s'il vous plait, je ne suis qu'une femme qui voudrois, que le Roy votre grand chef, mon unique et veritable pere, seût que je tiens tout mon bonheur de luy, il est je pense la cause que j'ay receu la priere, qui fait que je vous demande de sauver

⁹⁸ JR, vol. 65, pp. 124–125.

⁹⁹ It has been suggested that Marie Rokipiekoüé was in fact Marie Rouensa-8canic8e, see Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, p. 91. The Kaskaskia Manuscripts show that this was not the case, though the error is understandable as it can be very difficult to establish the identity of Indigenous individuals in the *Pays des Illinois* in the late 17th and early 18th century. This confusion reveals an important point, the two Maries would have been of similar status and would most likely have shared very similar backgrounds.

le maitre de la marchandise du feu de ses fers, pour l'amour de dieu
notre seigneur Jesus Christ qui par sa mort nous a sauver du feu.

[My fathers who are my chiefs, listen to me please. I am only a woman
who wishes that the king, your great chief and my sole true father, knows
that I owe him all my happiness. It is due to him, I think, that I have
received the prayer, which is why I ask you to spare the warehouse-
keeper from the fire of his irons, for the love of our Lord Jesus Christ
who died to save us from the fire.]¹⁰⁰

Being married to a Chief, Michel, she would have been well placed in Illinois society, though it is not possible to trace her kinship relations more than this. It is quite possible that she was one of the women who rallied to Father Gravier's preaching in the 1690s, at the same time that Marie Rouensa-8canic8e was being envied upon to marry Michel Accault. Her role in this meeting is of interest; on the one hand, diplomacy was mostly the preserve of men for both the French and the Illinois. However, women leaders appear to have a particular role in the administration of justice, as can be seen in Trowbridge's observation, concerning the Myaamias, of their role in breaking the cycle of violence:

Any one of the relatives who feels himself sufficiently brave or is most affected by the loss of his friend undertakes this retaliation, which is frequently repeated on the other hand and being followed up at length becomes an affair of such consequence that the intervention of the women chiefs is necessary to put a stop to the shedding of blood. This course never fails to appease those who have been last injured or suppose that they have sustained the greatest injury. It is a common saying among them that the women chiefs cannot be and seldom if ever are refused when they make a request of this description. They are more implicitly obeyed than the male chiefs.¹⁰¹

Marie Rakipeköué's appeal referred to both the king and Christ, a reminder to the French of their wider social-legal and spiritual relationships. Her reference to fire is evocative both of the fires of Hell and of the fire that was used in the ritual torture of war captives. Take, for example, the gloss for <matchitchipe8a sakakapiro>, "les guerriers en criant et frappant sur les cabanes, disent il est mort en miserable (l esclave brûle) laissez en aller son

¹⁰⁰ ANOM, COL C_{13A}, vol. 7, f. 322r.

¹⁰¹ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, op. cit., pp. 16–17.

ame a son pays [the warriors crying out and striking the lodges say, ‘he has died in a wretched way (the burned slave), let his soul go to his country’].”¹⁰² The other leaders highlighted that it was against Illinois custom to execute someone for a murder and that this treatment was reserved for enemies. Marie Rakipekōué went beyond this and indicated that this went against the religious principles of Christian forgiveness as well. One idea that is highlighted twice in the speeches is that André Perillault acted in a moment of madness, that is to say without premeditation. Kiraoueria emphasised that “le maitre de la marchandise a esté dans un moment fol [The ware-house keeper was mad for a moment],” and that:

[...] il a fait tous d’un coup une grande folie mais ne pouvés vous pas, mes Peres, ne pas tant faire d’attention a sa folie, ne pouvés vous pas l’oublier, il y a des fols par tout, aucune nation ne se peut glorifier d’en estre exempte, mais dieu qui est le maitre de tout ne detournet-il pas les yeux de dessus nos folies quand on le prie, il cesse d’estre fâché, il pardonne.

[He committed, all of a sudden, a great folly. But could you, my fathers, not pay so much attention to his folly; could you not forget it? There are madmen everywhere, and no nation can glory in being free from them. But does not God, who is the Master of all, raise his eyes above our follies when we ask him to be no longer angry?]”¹⁰³

A marginal note for “folie” indicates that this means “Il a commis un crime, fait tous d’un coup, une grande faute [He committed a crime, acted in one moment, a grave fault].”¹⁰⁴ This language that was echoed by De Boisbriant in his reply, though he was presenting the French view on the matter:

[...] il est de valeur de vous accorder d’un homme qui a fait une si grande folie, il a tüé, et apprenés aujourd’huy, mes enfants, que le grand Chef des françois, le roy, vôtre pere, et le nôtre veut qu’on punisse de mort tout hommicide, parmi nous, un tel crime ne peut estre impunity [...]

[it is a difficult matter to grant you the life of a man who has committed such a great madness. He has killed, and understand, today, my children,

¹⁰² PN, 146:24.

¹⁰³ ANOM, COL C_{13A}, vol. 7, f. 319v.

¹⁰⁴ *Ibid.*

that the Grand Chief of the French, the King, your Father and ours,
desires that every murderer be punished with death.]¹⁰⁵

For the Illinois, a note in the margins of the manuscript containing the speeches indicated, “c’est une espece de folie que de faire mourir un meurtier [To them it appears folly to take the life of a murderer].”¹⁰⁶ This indicates that the distinction between legitimate and illegitimate killing of members of a community (as between an execution and a murder) was not a distinction that was current in Illinois legal culture. Their jurisprudences relied on reaching a settlement between the parties’ kin, a settlement that was framed by the thread of universally recognised ritual and an appeal to the sacred nature of these. For them, a legitimate killing was something that belonged to the realm of war, which was intertwined with the concept of murder.

Murder and war

Turning now to the question of murder, one of the key things that needs to be addressed is how to define crime. As one of the aims of this study is to explore the Illinois legal culture in the 18th century, it is not particularly important to consider how crime is understood in the modern context, beyond recognizing that while modern and historic meanings of the term are close, they can differ in subtle yet significant ways. An 18th-century French reference source on law notes of crime “C’est une action méchante qui blesse directement l’intérêt public ou les droits du citoyen [A wicked action that directly harms the public interest or the rights of citizens (my translation)].”¹⁰⁷ The first part, indicating that crimes are *méchante*, or wicked, actions refers to a society’s moral

¹⁰⁵ *Ibid.*, 320v.

¹⁰⁶ *Ibid.*, 319v.

¹⁰⁷ Joseph-Nicolas Guyot, *Répertoire universel et raisonné de jurisprudence civile, criminelle, canonique et bénéficiale*, vol. 17, n.l., Visse, 85 1784, Nouv. éd. corr. et augm., p. 169.

principles. What is considered immoral depends, of course, on the society in question, but this is a base on which the concept of crime can be investigated – provided one does not accept the position of the author of the *Histoire de la Louisiane* (1758), Antoine-Simon Le Page du Pratz, that “parce qu’en suivant exactement la loi de Nature, ils n’ont aucun débat, & ainsi n’ont point besoin de juges [because in exactly following the law of nature, they have not controversies and hence have no need for judges (my translation)].”¹⁰⁸ Such a situation would remove the attribute of authority from the concept of law, rendering it something else, akin to Alvord’s mythical “unbreakable custom.”¹⁰⁹

The second part of this definition is more problematic, as it indicates that the action must “blesse directement l’intérêt publique ou les droits du citoyen [harms the public interest or the rights of citizens].” This refers to two concepts, “public interest” and “rights” which are tied to a particular European understanding of society. Indeed, Trowbridge wrote of the Myaamias:

There are no acts, committed by a member of the nation against the whole body, considered as an offence as such. On the contrary, although the tribe generally, may feel grieved at the improper conduct of one of its individuals, no attempt to avenge the insult or injury, but those who are directly affected by it. Nor are there any acts besides murder, for which they feel themselves entitled to revenge in the same manner that retaliation is had for that offence. But stealing, rape and adultery sometimes bring death. And although, strictly speaking, the punishment is not lawful, yet if a thief be killed, by the owner of the stolen goods, and in the manner, his death passes unavenged. So too in adultery, the offending party subjects himself to the vengeance of the husband, and if he pays with the forfeiture of his life for the gratification of his passions, the chiefs, who are bound to protect their subjects from unlawful inroads upon their domestic felicity, do not sanction any measure for the punishment of the murderer.

Rape is seldom otherwise punished, than by the universal promulgation of the circumstance, the name of the offender, and the contempt of the nation. These are all the acts considered highly criminal.¹¹⁰

¹⁰⁸ Antoine-Simon Le Page Du Pratz, *Histoire de la Louisiane*, vol. 2, Paris, de Bure l’Ainé, La Veuve Delaguet, and Lambert, 1758, p. 314.

¹⁰⁹ Clarence Walworth Alvord, *The Illinois Country: 1673–1818*, *op. cit.*, p. 43.

¹¹⁰ TR, 34.

Drawing on this observation, the concept of crime would appear to be separate from the idea of a collective injury amongst the Illinois, at least in the main part. This is not an essential thread to the concept, however, as what is required is the understanding that a crime creates an imbalance in social obligations between individuals and that a resolution is required. For the French, however, this was a central aspect of their understanding of law. The notion of a *cas royal* in 18th century French law can illustrate this. According to the author of the *Dictionnaire de Droit et Pratique* (1769):

Les cas royaux sont les crimes qui donnent directement atteinte à l'autorité royale, & qui offensent la personne du Roi comme Roi. Ils sont donc appelés royaux, à cause de l'intérêt que le Roi a de les faire punir, tant pour la conservation de ses droits, & la manutention de son autorité royale, que pour la sûreté publique.

[The *cas royaux* are crimes that directly prejudice royal authority, & which offend the person of the King as King. They are therefore called royal due to the interest that the King has in punishing them, as much for the preservation of his rights and the upholding of his royal authority, as for public safety. (my translation)]¹¹¹

The types of crime listed include lese-majesty, rebellion, illegal assembly, sedition, public corruptions and heresy. Here royal authority represents the nation and therefore a crime against the king is a crime against public order. Obviously, the concept of a *cas royal* requires a centralized monarchy, something that was absent amongst the Illinois and Myaamias.

This said, the consequences of a murder could have an impact on the whole of Illinois society, provoking a cycle of violence or even a war. It followed that resolving a murder could also avert a war and, in this aspect, the question was one that concerned the whole society and not just the individual families. This can be seen in a review of Miami-

¹¹¹ Claude-Joseph De Ferrière, *Dictionnaire de Droit et de Pratique*, *op. cit.*, pp. 218–219.

Illinois words associated with murder (see Table 4.2), which illustrates the varying threads that made up this concept in the 18th century for the Illinois.

Table 4.2. Entries connected to murder

<i>Nº</i>	<i>Miami-Illinois manuscript</i>	<i>French or Latin gloss</i>	<i>English translation</i>	<i>Source</i>
1	Nikiminara	Je l'attaque, bas, tue, en secret, en traistre	I attack him, beat him, kill him in secret, as a traitor	LG, 204:27
2	Kiminaki8ni	assassinat	assassination	LG, 204:28
3	Ninechi8e	j'assasine	I murder, assassinate	LG, 332:23:1
4	Ninechi8e	je tuë, bats, assassine	I kill, beat, assassinate	LG, 342:2:3
5	Nisseti8ni	assassin meurtier vide Ninessa	assassin, murderer <i>see</i> 'Ninessa'	LG, 332:23:2
6	8ic8akissen8i	chemin gasté par un meurtre, geurre declarée	path spoiled by a murder, a declared war	LG, 388:26
7	Ni8ic8akisis8	je ne suis pas taché de sang, coupable de meurtre	I am not spotted with blood, not guilty of murder	LG, 388:27
8	Ni8ic8akisi	je suis taché de sang coupable de meurtre, auteur de la guerre	I am spotted with blood, guilty of murder, the one who started the war	LG, 388:28
9	Ni8ic8akihig8	on m'accuse du meurtre d'estre cause de la guerre	people are accusing me of murder, of being the cause of war	LG, 388:29
10	Papacapikisset8nta	meurtry de coups de fouets	murdered by blows from whips	LG, 428:2
11	atch8nki8ni	meurtre	murder	LB, 88:6
12	Nisseti8ni	meurtre	murder	LB, 290:80:1
13	anarei8tehe8a kiminaji8ni echitehe8a	il ne pense qu au m.	he thinks only of murder	LB, 290:80:2
14	nikiminara	Je tue en secret	I kill him in secret	LB, 378:36
15	nikiminaki	Je tue en cachette	I kill secretly	LB, 406:65

From the table, two key ideas can be identified. First, that concept of blood is a central one to the Illinois rhetoric connected to murder. <Ni8ic8akissett8> is given as “je rougis la terre le chemin de sang [I redden the ground, the path, with blood],” and

«Ni8ic8akisis8» as “je ne suis pas taché de sang, coupable de meurtre [I am not spotted with blood, not guilty of murder].”¹¹² Second, the concepts of murder and war are linked through the spilling of blood. «Ni8ic8akisi», for example, is given as “je suis taché de sang coupable de meurtre, auteur de la guerre.”¹¹³ This can be seen in Kiaoueria’s speech, for example when he said, “les Renards souillent de votre sang et du notre nos terres [...] repandriés vous le sang d’un françois pour effacer celui d’un autre françois, et d’ou vient a la perte d’un homme ajouter celle d’un autre [Would you [...] spill the blood of a Frenchman to blot out the blood of another? And add to the loss of one man another?].”¹¹⁴ The focus of the Illinois legal order appears here to be on preventing further bloodshed rather than on punishing the perpetrator. This is not to say that the concept of punishment by death was alien to the Illinois, as Largillier gives «Nipeï8ni tepahakita» as “punit de mort [punished by death].”¹¹⁵ What is telling is Kiaoueria’s assertion, at the end of his speech, that “je demande la vie d’un de tes enfants, qui n’a esté qu’une seule fois fol [I ask you to spare the life of one of your own children, of one who acted in madness only once].”¹¹⁶ From this it is possible to suggest that a division existed in the Illinois legal culture between those who offended once, and those who did so repeatedly. Here, one can also see compassion as a guiding principle.

In the speeches war is referenced in numerous places, and one finds again a connection to the sacred. In the first speech, Kiraoueria made reference to the French and Illinois alliance, reminding De Boisbriant that he had gone to war to avenge the death of

¹¹² LG, 388:27 and 30

¹¹³ LG, 388:28.

¹¹⁴ ANOM, COL C_{13A}, vol. 7, f. 319r.

¹¹⁵ LG, 568:16.

¹¹⁶ ANOM, COL C_{13A}, vol. 7, f. 319v.

a Frenchman on Bienville's request. Here he used the deeply symbolic phrase “de rougir sa natte [redden his mat].”¹¹⁷ The term “nate de guerre” literally means “war mat,” though it is better translated as “Medecine Bags.”¹¹⁸ Table 4.3 provides a list of terms from the Miami-Illinois–and–French dictionaries that cover this concept.

Table 4.3. Entries connected to Medicine Bags

<i>Nº</i>	<i>Miami-Illinois manuscript</i>	<i>French or Latin gloss</i>	<i>English translation</i>	<i>Source</i>
1	ac8gane m8taĩ	sac de medecines, ou l on met aussy des os pour racler dans les medecines	medicine bag, where one also puts some bones in order to scrape into the medicines	LG, 14:32
2	Chig8ipichina8a	peau qui a queüe teste pattes. sac a petun 8g ou de jongleur	skin which has the tail, the head, the paws. tobacco bag e.g. or shaman's (bag)	LG, 121:2
3	C8ganem8taĩ	sac ou le jongleur porte ord. avec luy ses manit8s.	bag where the shaman usually carries with him his spirit helpers	LG, 135:2
4	Manet8i mahagane	plume 8g pour prendre la medecine dans le sac	Feather e.g. to take the medicine from the bag	LG, 244:16
5	mansani m8taĩ	Sac auy oyseaux du jongleur	the shaman's bag with birds	LG, 246:18
6	8abans8ara8i acha8a8s8ni	bandoliere Etroite de poil de lievre tint en rouge au bout de laquelle le jongleur attache qq medecines qđ il les porte raro	narrow bandolier of rabbit fur painted in red at the end of which the shaman attaches some medicines and he carries them <i>rare</i>	LG, 364:17
7	Tatang8ngghi Eteki makiski8i	medecine precieuse dans un sac de beste	precious medicine in an animal bag	LG, 544:13
8	ninaina8a 8apanaki	je lui apprens a faire des nates de guerre	I teach him/her how to make war bundles	LB, 80:49:1
9	nikikinama8a [8apanaki]	je lui apprens a faire des nates de guerre	I teach him/her how to make war bundles	LB, 80:49:2
10	8apanaki	sac pour Les manit8s	bag for the manitous, spirit helpers	LB, 244:53
11	8ap[a]nakia	nate de guerre sac aux oiseaux	war mat, bag for the birds	LB, 298:25:1
12	Makinchia	Sac aux medecines	medicine bag	LB, 374:12

¹¹⁷ *Ibid.*, 320r.

¹¹⁸ LB, 132:8.

Here one can note the entry <ḡap[a]nakia naiḡca>, “Celui qui porte la nate Le chef du parti [the one who carries the medicine bundle, the leader of the war party].”¹¹⁹ LeBoullenger also noted that such a leader was called <maḡichinga>, or in its modern spelling *maawihšinka*, “Chef de guerre celui qui delibere des soldats, d une bande [war chief, the one who reflects about his soldiers, about a war party].”¹²⁰ Alongside the Calumet, these Bags were highly potent religious objects. Trowbridge describes the process of assembling the Medicine:

On the night before setting out [to war] the Chiefs and all the young men assemble at the large council house in the village, where each man deposits in a piece of cloth extended for the purpose a piece of *medecine* [*sic*], being a sign designating the tutelar Deity to whom he commits his life in the expedition about to be undertaken when each man has deposited something the bundle is tied up and they begin to dance. They dance with little or no cessation all the night and in the morning when they feel themselves ready one of the party, a medecine man, gets up puts the bundle of medecine in to his medecine bag, throws it across his shoulder, commences the war song and leads off.¹²¹

One can note a collective aspect to this ritual, binding the war party together. An earlier description of the Medicine Bag can to be found in Claude-Charles *dit* Bacqueville de La Potherie’s *Histoire de l’Amérique Septentrional* (1722).¹²²

Ce fut dans la Cabane du grand Chef des Miamis qu’il avoit fait dresser un Autel, sur lequel il avoit fait mettre un *Pindiikosan*, qui est le Sac des Guerriers, remplis d’herbes medecinales, renfermées dans des peaux d’animaux les plus rares qu’ils avoient pû trouver, & qui contenoit generalement tout ce que leur inspirent leurs rêveries.¹²³

[In the cabin of the great chief of the Miamis an altar had been erected, on which he had caused to be placed a Pindikosan. This is a warrior’s pouch, filled with medicinal herbs wrapped in the skins of animals, the

¹¹⁹ *Ibid.*

¹²⁰ LB, 132:6.

¹²¹ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, *op. cit.*, p. 20.

¹²² He was not an eye-witness, but based his work on interviews with reliable witnesses, see Léon Pouliot, “Le Roy de la Potherie, dit Bacqueville de La Potherie (La Poterie), Claude-Charles,” *Dictionary of Canadian Biography*, vol. 2, 1969, <http://www.biographi.ca/en/bio/le_roy_de_la_potherie_claude_charles_2F.html>.

¹²³ Claude-Charles dit Bacqueville de La Potherie, *Histoire de l’Amérique septentrionale*, vol. 2, Paris, Jean-Luc Nion et François Didot, 1722, pp. 109–110.

rarest that they can find; it usually contains all that inspires their dreams.]¹²⁴

The connection between the colour red and war in relation to the Calumet has already been mentioned. Indeed, the words for being red and bleeding in Miami-Illinois are constructed using the same morpheme.¹²⁵ The reference to reddening his mat by Kiraoueria, shows a wider symbolic attachment of the colour to war. A traditional story of the Myaamias, recounted by Sarah Jane Cass Keiser in 1916, “Turtle on the Warpath”, recounts how Turtle painted himself red before going to war, the paint being eventually mistaken for blood which allowed his escape.¹²⁶ Similarly, boys would use black paints while fasting, which would be exchanged for red (and other colours) once they had reached adulthood.¹²⁷ Red is, of course, the colour of blood and it is in this aspect that it can be found as connecting to the concept of murder. It had also sacred symbolism, as can be seen in the gloss for <8abans8ara8i acha8a8s8ni>, which reads, “bandoliere Etroite de poil de lievre tint en rouge au bout de laquelle le jongleur attache q̄q̄ medecines q̄d̄ il les porte raro [narrow bandolier of rabbit fur painted in red at the end of which the shaman attaches some medicines and he carries them *rare*].”¹²⁸

The term given at the beginning of this chapter, <8ic8akissen8i>, indicates the broader questions of justice surrounding homicide. It means “chemin gasté par un meurtre, geurre déclarée [path spoiled by a murder, a declared war].”¹²⁹ The idea of a killing not as an isolated incident, but as a stain laden with dangerous consequences, is crucial to

¹²⁴ Claude-Charles dit Bacqueville de La Potherie, “Adventures of Nicolas Perrot, by La Potherie, 1665–1670,” in Louise Phelps Kellogg, ed., *Early Narratives of the Northwest, 1634–1699*, New York, Charles Scribner’s Sons, 1917, p. 87.

¹²⁵ For example, *neehpikiliaani* and *neehpikanki* mean “I am bleeding” and “it is red” respectively, MP.

¹²⁶ David J. Costa, *myamia neehi peewaalaa aacimoona neehi aalhsoohkaana: Myamia and Peoria Narratives and Winter Stories*, op. cit., pp. 76–77.

¹²⁷ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, op. cit., pp. 67–68.

¹²⁸ LG, 364:17.

¹²⁹ LG, 388:26.

understand the primary sources investigated here. In any society a murder raises the possibility of revenge killings and, if unchecked, of a blood feud. Without some means of controlling these impulses warfare remains a possible consequence of a homicide, as indicated in the above French gloss. The Illinois view of murder was summarized in a marginal comment to the speeches:

Nos sauvages ne savent ce que c'est que la justice, en sens que de punir le crime, ils regardent celle qu'on fesoit a un homicide comme une vengeance qu'on tireroit en faveur de celui qui avoit esté tûé. Parmi eux c'est une espece de folie que de faire mourir un meurtier, mais quand quelqu'un a tûé un autre soit par accident ou autrement, les chefs du Village et les parents de l'homicide appaisent les parents du mort par des presents d'esclaves, ou des calumets, ou de marchandise, et ils appellent cela couvrir le corps de celui qui a esté tué, c'est à dire luy satisfaire, et faire oublier aux vivants leurs pertes ou la leur cacher, en sorte que les vivants interessés acceptants de ce sorte ces presents se tiennent contents, et ne pensent plus a se venger.

[Our savages cannot understand justice in the sense that it punishes crime. They consider justice done to a murderer as a vengeance in favor of the one who was murdered. To them it appears folly to take the life of a murderer. With them, when someone has killed another, by accident or otherwise, the chiefs of the village and the parents of the murderer appease and calm the parents of the victim with presents of slaves or calumets or merchandise, and they call this Covering the Body of the one who was killed, that is, to satisfy the victim, to make the living forget their loss or to hide it from them in such a way that, by receiving these kinds of presents, they may feel satisfied and think no more of revenge.]¹³⁰

The possibility of a cycle of violence leading to revenge killings was highlighted in a later travel account by the French soldier and spy George Henri Victor Collot's *Voyage en Amérique septentrionale* (1826). This details his travels along the Ohio and Mississippi rivers in 1796, though the work was published posthumously. He noted that violence in the area was common in the late 18th century, and blamed this on large part on individuals

¹³⁰ ANOM, COL C_{13A}, vol. 7, f. 319r.

who had been shunned by their society due to “vol ou autre mauvaise action [for robbery or some bad action].”¹³¹ However, he also noted that:

Quelquefois cependant ces meurtres ont lieu par représaille. Un Indien a-t-il été tué par un blanc, dès que la nouvelle en est parvenue, la nation entière jure d’en tirer vengeance, et de répandre la même quantité de sang que l’on en a versé. En conséquence, le premier blanc qui se présente, étranger ou non, est tué.¹³²

[sometimes, however, massacres take place by way of reprisal. If an Indian be killed by a White, as soon as the news reaches the tribe, the whole nation swears vengeance, and the same quantity of blood which has been taken shall be shed: after which, the first White that presents himself, whether a stranger or no, becomes their victim.]¹³³

This account comes from a period of increasing settlement and this territorial encroachment no doubt heightened tensions. Such vengeance killings were not new, however, and the French had exercised such attacks as part of their imperial policy, as the Chief Michel reminded De Boisbriant:

M[onsieur] De Bienville et nous avons autrefois pleuré un Blanc Collet¹³⁴ tué par les Coroas, nôtre pere fit dire a mon pere Rouensa, aux Kas[ka]kias mon village de le venger, j’ay esté en guerre sur cette folle nation, je l’ay frappée, et a la frapant j’ay vû couler le sang de quelques uns de mes guerriers [...] mes camarades ont fait comme moy et tu sais que nous en pleurons, qui, en vengeant la mort du françois ont rougi la terre de cette folle nation de leur sang, je brusle de colere mais dis moy mon pere, de m’appaiser, je t’obeïs aussitost, il ne reste pas en mon cœur un seul charbon de feu, aye donc je t’en prie egard a ce que je te demande, delie ce françois, jette loing ces tisons que luy bruslent les pieds, il souffre, il nous fait a tous pitié.

[We and Monsieur de Bienville at one time wept over a White Collar¹³⁵ killed by the Coroas. Our father sent word to my father, Rouensa, to Kaskaskia, my village, to avenge him. I went to war against that mad nation; I struck them and in striking them I saw the blood of several of my warriors spilt [...] you know that daily we weep over the loss of those, who, while avenging the death of a Frenchman, reddened the soil of that mad nation with their blood. I burn with anger, but tell me father, to quiet myself, and I obey at once, and not a burning ember remains in my heart. Listen, then, to my petition: release this Frenchman; cast far

¹³¹ George Henri Victor Collot, *Voyage en Amérique septentrionale*, op. cit., p. 307; George Henri Victor Collot, *A Journey in North America*, op. cit., p. 223.

¹³² George Henri Victor Collot, *Voyage en Amérique septentrionale*, op. cit., pp. 307–308.

¹³³ George Henri Victor Collot, *A Journey in North America*, op. cit., p. 223.

¹³⁴ A marginal note indicates “M[onsieur] Foucault prestre du Seminaire de Quebec missionnaire aux A[r]kansas.”

¹³⁵ A marginal note indicates “Monsieur Foucault Seminary priest of the Arkansas mission.”

away those iron bars that burn his feet; he suffers; he makes us all pity him.]]¹³⁶

The avoidance of war, then, was a key element in the Illinois jurisprudences surrounding murder.

Covering the dead

The sanction normally imposed following a murder was the “covering of the dead” in the form of gifts, though Perrot noted that the Chiefs, who had authority in these cases, could persuade the relatives to hand over the guilty party in cases where a devastating war seemed to be inevitable. In this case, the murderer would be executed and both families would receive gifts.¹³⁷ This exchange of gifts was seen by the French in mercantile terms, as can be seen in the accounts submitted by Alphonse de Tonti in September 1717 recording the expenses he had occurred in settling a diplomatic incident in which a Myaamian woman and her husband were murdered.¹³⁸ Indeed, as this was a costly resolution, the sums involved were of interest at the highest levels of the French administration.¹³⁹ For the Illinois, however, this was more than a question of compensation (though this was still an important aspect of the system). This can be seen in the Kiraoueria’s appeal to the French to go to war rather than execute Perillault, “allons frapper [...] le Renard et le Chicachats, et de ces étrangers couvrons nos morts [let us

¹³⁶ ANOM, COL C_{13A}, vol. 7, f. 321.

¹³⁷ Nicolas Perrot, *Mémoire sur les mœurs, coutumes et religion des sauvages de l’Amérique septentrionale*, op. cit., pp. 292–294.

¹³⁸ “État de la dépense qui a été faite [par Tonty] pour accommoder l’affaire des Outaouais du Sagouin qui avaient tué des Miamis”, ANOM, COL C_{11A}, vol. 39, ff. 30v–31r. Alphonse was the younger brother of Henri de Tonti, another example of French kinship networks in the *Pays des Illinois*.

¹³⁹ See “Lettre de Vaudreuil au Conseil de Marine concernant le coup fait sur les Miamis par quatre Outaouais du Sagouin et les mesures prises par Tonty pour accommoder cette affaire”, 30 October 1718, ANOM, COL C_{11A}, vol. 39, ff. 149r–156v; and “Délibération du Conseil de Marine sur une lettre de Vaudreuil et Bégon datée du 8 novembre 1718 et sur une lettre de Vaudreuil du 30 octobre”, 31 January 1719, ANOM, COL C_{11A}, vol. 124, ff. 265r–272r.

strike the Fox and Chicachas and with those strangers let us cover our dead.]"¹⁴⁰ This indicates a spiritual aspect to the covering of the dead, something that can be seen in the Miami-Illinois–and–French dictionaries. There are over 500 references to words associated with covering in these, as one would expect of such a versatile term. Of these entries, fifteen have been identified that specifically connect to the concept of covering the dead (see Table 4.4).

Table 4.4. Entries connected to covering the dead

<i>Nº</i>	<i>Miami-Illinois manuscript</i>	<i>French or Latin gloss</i>	<i>English translation</i>	<i>Source</i>
1	Mechicansi8a	on ne le trouve jamais chez luy, il est toujours ailleurs il ne s'est point servi de ses beaux habits. Le mort n'a point touché ce dont on l'a voulu couvrir ce qu'on a jetté pour le couvrir	he can never be found at home, he is always elsewhere, he did not make use at all of his beautiful clothes. The dead one did not touch at all that with which people tried to cover him with, that which [was thrown to cover him]	LG, 264:36
2	Nina8ac8na	je donne qq chose au mort pour le couvrir ou en temoignage de ma douleur. it. je jette qq chose a eux son mary qui la meprise nt maltraite une de mes parents qui est chez eux pour luy faire cognoitre qu'il devoit en agir autrement ¹⁴¹	I give something to the dead one in order to cover him or in testimony to my sorrow. <i>Also</i> I throw something at my husband who looks down on her, mistreats her in order to let him know that he should act otherwise (my translation)	LG, 322:11
3	Ni8echicara	je fais un sepulchre dresse des bois pour empescher les bestes d'en approcher. fais un apantis, echafaut pour couvrir un beuf que j'ay tué	I am making a grave, erecting wood to keep the animals from approaching it. I am making a lean-to, a scaffold in order to cover (it)	LG, 380:1
4	Nipekitchipe	je meurs honorablement, soit en brave, soit en chrestien. soit qu'on jette $\overline{b\bar{p}}$ de marchandises a ma mort	I am dying honorably, be it as a brave, be it as a Christian. Let there be a lot of merchandise tossed to my death!	LG, 451:36

¹⁴⁰ ANOM, COL C_{13C}, vol. 7, f. 319v.

¹⁴¹ These words are struck through in the manuscript.

5	Tarechime8a tchipaïari	il couvre le mort. a Nitintarechima.	he covers the dead person <i>from</i> 'Nitintarechima'	LG, 543:4
6	kitac8rechimi cata nipeiane	tu me couvriras quand je serai mort	you will cover me when I am dead	LB, 154:66
7	matchitchipe8a	Le mort n a pas été couvert	the dead one has not been covered	LB, 294:8
8	matchihitina	on couvre le mort	one covers the dead one	LB, 154:62
9	ni8ei8king8ech8ra	je lui couvre le Visage pour L ensevelir	I cover his face to bury him	LB, 154:57
10	ni8ic8eh8ra	je le couvre depuis Les pieds jusqu a la teste pour L ensevelir	I cover him from head to toe to bury him	LB, 154:59
11	nic8e8ra	je lui couvre le Visage pour L ensevelir	I cover his face to bury him	LB, 154:57
12	nimpakitama8o tchipaia	je couvre le mort	I cover the dead man	LB, 154:33
13	nintac8ana8a	je le couvre L ensevelis	I cover him, bury him	LB, 154:38
14	nitintarechima kitchipaiama	Je couvre tes morts	I am covering your [singular] dead (ones)	LB, 294:87
15	nitchipaiaminanaki nitacorechimaki	je couvre nos morts	nitchipaiaminanaki nitacorechimaki	LB, 294:88
16	tarechime8o	3	third person [he/she is covering your dead (ones)]	LB, 294:87

One of the most illustrative is <Mechicansi8a>, for which the gloss reads, “on ne le trouve jamais chez luy, il est toujours ailleurs il ne s est point servi de ses beaux habits. Le mort n’a point touché ce dont on l a voulu couvrir ce qu on a jetté pour le couvrir [he can never be found at home, he is always elsewhere, he did not make use at all of his beautiful clothes. The dead one did not touch at all that with which people tried to cover him with, that which was thrown to cover him].”¹⁴² This makes the deceased an active partner (at least metaphorically) in reception of these goods. Even if the social and legal obligation was to the deceased family (whose desire for revenge was a key element in the

¹⁴² LG, 264:36.

arrangement) this nevertheless indicates that the deceased has to be seen to accept being covered. The Illinois had a belief in the afterlife, the term <atchichigamimaḡa> was given as “L ame [the soul]” by LeBoullenger.¹⁴³ The modern spelling is given by the ILDA as *acihciikamimaawa* meaning “one’s soul, shadow.” Failing to cover the dead can be seen as connected to this, as can be seen by the entry for <matchitcheḡa> for which the gloss is “Le mort n a pas été couver [the dead one has not been covered].” This is the same term as in <matchitcheḡa sakakapiro>, mentioned above, in relation to the spirit of a dead war captive who had been ritually tortured, and refers to an evil ghost.¹⁴⁴

The nature of these beliefs in the 17th century is hard to trace, especially as where they are mentioned by French authors they are coloured by Christian conceptions, conceptions which were no doubt also beginning to impact Illinois thought. One of the clearest accounts comes from Charles Trowbridge recording of a story told to him by the Myaamian Chief Meehcikilita (or Le Gros) in the winter of 1824–25. It tells of a young man who had died and was dressed, painted and laid out by his grieving relatives, with his bow by his side. As was customary at that time, a vigil of the body was maintained before burial in case life would return, which it would in this case after the man had visited the afterlife. Once recovered and his relatives’ “tears were dried” he proceeded to recount the following vision he had had:

I thought that I died – that I was buried by my friends among the bones of my ancestors, and that I sat out, travelling to the west. The trail was very large, and bore evident marks of having been much used. I continued for some time and arrived at a place where the road forked. An old man who stood there pointed to one of them and told me that it led to a large lodge, where a number of persons were employed in burning upon a large fire, the bodies of such as had committed heinous crimes during life, among which he mentioned murder, stealing etc. As none of these had been committed by me, I chose the other path and travelled on. I soon arrived at a lodge where I saw a large dog. I was

¹⁴³ LB, 74:58.

¹⁴⁴ See translator’s note for PN, 146:24, number 75 in Appendix E.

informed that he was stationed there to devour all those who had been distinguished for cruelty to animals, particularly to those of his own species. Not having been guilty of this offence I passed on, and at some distance from the lodge I arrived at a large river.¹⁴⁵

Here, what is interesting is the idea of punishment for earthly offences, giving this part of the tale a moral edge. It also reinforces the connections between law and the supernatural discussed above. The young man continued his journey until he came to a place made for dancing, where:

Three or four old men, who were employed as singers, demanded of me whence I came, and upon being informed pointed out to me many of my relatives engaged in the dance, some of whom I had seen and others died before the period of my existence. They told me that these were abundantly supplied with every thing which could contribute to their comfort, without any exertion, and desired me to join them. I was about to do so, when it occurred to me that I had left my favourite bow on the road, and I thought I would return and procure it.

After which he begins his return to the land of the living. Beside the moral questions, one can see here a certain permeability between the worlds of the living and the dead, a permeability that included an idea of the dead having to accept the goods put forward to cover them. The ritual of covering the dead was a custom that was found in numerous societies in the *Pays d'en Haut*. The Condolence Ceremony was described at length by Nicolas Perrot and he provided version of the type of speech that might be employed:

Nous sommes icy pour vous confesser le crime commis par un de nos jeunes gens envers un tel, on nomme alors celui qui a esté tué, nostre village n'approuve pas le meurtrier; vous sçavez qu'il y a longtemps que nous sommes alliés, et que vos ancestres et les nostres se sont présenté calumets pour fumer ensemble, on cite l'année. Depuis ce temps là, nos villages se sont tousjours mutuellement secourus contre une telle nation avec laquelle nous estions en guerre. Vous ignorez pas que nos morts sont en l'autre monde dans le meme endroit que les vostres; et si le ciel a permis qu'un egaré ait renversé ou rompu l'union que nos ancestres ont eüe avec vous, et nous avons tousjours conservée, nous sommes donc venus dans le dessein de prevenir vostre juste ressentiment. En attendant une plus entiere satisfaction, ce present est pour essuyer vos larmes; celui là pour mettre une natte sous le cadavre de votre mort, et

¹⁴⁵ The story is given in TR, 98–100, a shorter version can be found in Charles Christopher Trowbridge, *Meẽarmeẽar Traditions*, *op. cit.*, pp. 52–53.

l'autre une ecorce pour le couvrir et le mettre à l'abry des injures du temps.¹⁴⁶

[“We are here to confess to you the crime committed by one of our young men upon So-and-so” (and then they name the man who was slain). “Our village does not approve the [act of the] murderer. You know that you have been our allies for a long time, and that your ancestors and ours presented the calumets to each other to smoke together” (they mention the year). “Since that time our villages have always aided each other against such and such a nation, with whom we were at war. You are not ignorant that our dead are in the other world, in the same place as yours; and if Heaven has permitted that one deluded man has overthrown or broken the union which our ancestors had with you, and which we have always maintained, we have therefore come with the design of averting your just resentment. While you are waiting for a more complete satisfaction, this present which we offer you is to wipe away your tears; that one is to lay a mat under the corpse of your dead, and this other, to lay on him a sheet of bark to cover him and shield him from the bad effects of the weather.”]¹⁴⁷

The structural similarities between the language here, and that used by the Kaskaskian and Cahokian delegations show that this was part of the wider pattern of shared legal culture employed in the *Pays d'en Haut*. This is not surprising, however, given the fact that a murder could lead to devastating warfare. The Condolence Ceremony was not only part of Indigenous jurispractice, but also a key element of diplomatic relations.

Conceptual-affective models

The aim of this study is to harness linguistic sources to better understand Illinois legal culture. To this end it is necessary to compile and sturture the above analysis. A method has been developed from a principle known as cognitive-affective mapping, a recently developed tool in cognitive psychology. These are diagrams that show “not only the conceptual structure of people’s views but also their emotional nature, showing the

¹⁴⁶ Nicolas Perrot, *Mémoire sur les moeurs, coustumes et relligion des sauvages de l'Amérique septentrionale*, *op. cit.*, p. 293.

¹⁴⁷ Nicolas Perrot, “Memoir on the Manners, Customs, and Religion of the Savages of North America,” *art. cit.*, pp. 139–140.

positive and negative values attached to concepts and goals.”¹⁴⁸ Effectively, this approach is a schematic method for representing complex relations between ideas while indicating their emotional content. This latter point is important, as ideas connected to law are deeply connected to emotion, feelings of right and wrong, justice and injustice. The emotional response of both the French and Illinois can be seen in the speeches, points which evoke a strong emotion can be identified through the manner in which they are spoken of (though this remains, as always, a matter of interpretation). It is useful, then, to highlight these and identify where they differ between the French and Illinois. In this work, the principle of the cognitive-affective map has been used to inspire a model of representation of the interaction of concepts that can be found in the archival records. Here, the term “conceptual-affective model” has been adopted, partly because the method has been adapted to the specific requirements of this study, with the four threads of law identified in Chapter 3 represented in this model. It is also because the definition of concept used employed in the cognitive-affective maps is too broad for this work: “a representation of an important cognitive element, such as a goal, action, event, person, organization, or general idea.”¹⁴⁹ Finally, a model appears to be a more appropriate title here, as the information on which they are built is limited and it is therefore pertinent to underline that differing conceptual models could be posited.

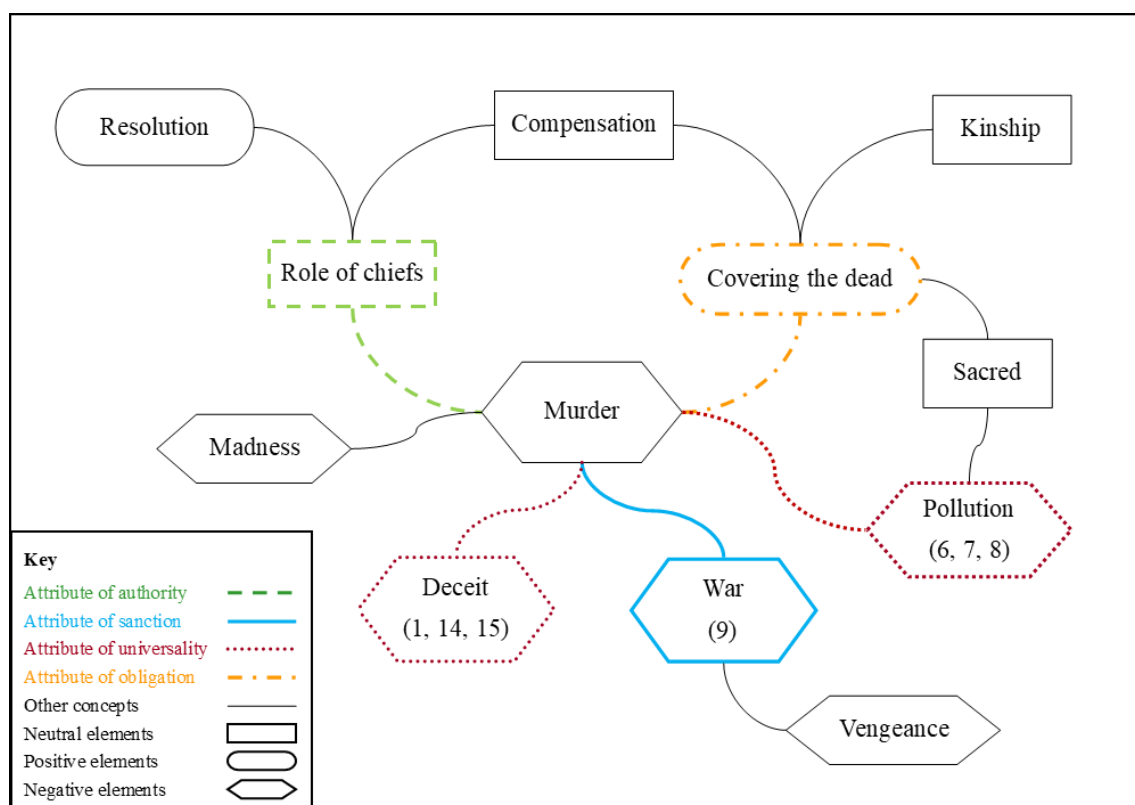
This said, the basic structure of these models is the same, they are “labelled graphs in which the vertices (nodes) represent concepts along with their affective (emotional)

¹⁴⁸ Paul Thagard, “Mapping Minds across Cultures,” in Ron Sun, ed., *Grounding the Social Sciences in the Cognitive Sciences*, Cambridge (Mass.) and London, MIT Press, 2012, p. 37.

¹⁴⁹ Paul Thagard, “Empathica: A computer support system with visual representations for cognitive-affective mapping,” *Association for the Advancement of Artificial Intelligence Workshop – Technical Report*, 2010, p. 79; see also Paul Thagard, “Mapping Minds across Cultures,” *art. cit.*

values. The edges in the graph represent the links between the concepts.”¹⁵⁰ As well as indicating positive and negative elements, the four attributes of the concept of law discussed in Chapter 3 have also been indicated (using the same colours and lines found in Figure 3.2). In addition, connected concepts are shown, with an indication of whether these are seen as being neutral (a rectangle), positive (a rectangle with rounded ends), or negatively (an elongated rhombus). Model 4.1 provides an overview of the key relations between ideas that can be elicited from the primary sources.

Model 4.1. Conceptual-affective model of the concept of “murder”¹⁵¹



¹⁵⁰ Paul Thagard, "Empathica: A computer support system with visual representations for cognitive-affective mapping," *art. cit.*, p. 79.

¹⁵¹ The numbers in parentheses refer to entries in Table 4.2.

Certain concepts can be drawn from the Miami-Illinois–and–French dictionaries (entries in Table 4.2 are noted in the model). The role of Chiefs as authorities has been highlighted. Here, their role was to attempt to avoid a cycle of violence that could threaten the whole community. They called on the customary practice, and social obligation, of covering the dead in order to achieve a resolution between the families of the murderer and the victim. This called on the Illinois’ understanding of the sacred – the spilling of blood was a pollution that needed to be wiped away. Murder was seen negatively by the population, as can be seen in its connection to terms of betrayal, though a lack of premeditation was seen as a moment of madness for which punishment was not required or useful. It fell on the murderer’s kin to regulate their behaviour, something that the act of covering the dead would help ensure. The possibility of a cycle of violence acted as the ultimate sanction for murder, an eventuality that the Illinois system strove to avoid.

In Chapter 3, the families of concepts connected to the morpheme <kikint8r> in the Miami-Illinois–and–French dictionaries were identified (see Model 3.1). These provided a base for on which to build a picture of Illinois concepts justice. The analysis of the speeches of the Kaskaskian and Cahokian delegations adds another level to this, in the area of murder. It now remains to explore the aspects of Illinois law that are not as clearly preserved in the historical record, and to consider why this is.

CHAPTER 5

ON THEFT, SLAVERY AND ADULTERY

<Nam8eta>
 qui ne prononce pas bien les mots qui ne les prononce
 quâ demy soit de faute de langue soit crainte, oubly,
 ignorance
 [(one) who does not pronounce the words well, only
 pronounces them partially, either because of a
 language mistake or out of fear, forgetfulness, not
 knowing]

– Largillier-Gravier Dictionary¹

Samuel Johnson's celebrated *A Dictionary of the English Language* is known for its scholarship and, unusually when one considers modern dictionaries, its literary flourishes and wit (at least in some of the entries). A famous example is the definition of "tory," which is given as "One who adheres to the antient constitution of the state, and the apostolical hierarchy of the church of England, opposed to a whig." In its turn, "whig" is given as "The name of a faction," which is followed by a lengthy (and negative) quotation explaining the word's origins.² Behind this lies the final aspect of dictionaries that will be explored: the biases of their authors and their use for propaganda. Johnson's remarks underscore the political tensions that existed in 18th century Britain, and his position as a Tory and a supporter of the Jacobite claim to the throne.³ Unlike Johnson's *Dictionary*, the Miami-Illinois–and–French dictionaries were not written for publication. Their role as political and propaganda instruments was not, therefore, in their dissemination but rather

¹ LG, 316:16.

² Samuel Johnson, *art. cit.*

³ When the Dictionary was published, in 1755, a mere ten years had passed since a Scottish Jacobite army had marched on England, before being forced to retreat and being crushed at the Battle of Culloden, Samuel Johnson, *Selected Writings*, London, Penguin Books, 1986 (1968), pp. 32 and 249.

in their use on the ground in the *Pays des Illinois*. They enabled the Jesuits to engage in proletianization and, concurrently, to communicate French imperial interests. Concerning their role as historical sources, this aspect can be found in the attitudes and values that these dictionaries record, as well as by the omissions that can sometimes be equally telling. They enable us to move closer not only to Indigenous conceptions of the world, but also to those of the colonizers. It is necessary to consider the process by which the entries were compiled. What is included, and excluded, in these dictionaries can be revealing.

The opening gloss for «Nam8eta», “qui ne prononce pas bien les mots qui ne les prononce quá demy soit de faute de langue soit crainte, oubly, ignorance [(one) who does not pronounce the words well, only pronounces them partially, either because of a language mistake or out of fear, forgetfulness, not knowing]” is indicative of this, and a reminder of the opaqueness of historical study, the pitfalls of errors of interpretation. The limitations of language dictionaries as historical sources can be summarised as follows: firstly, there are technical restrictions to the amount of information included in a single dictionary. Secondly, there is the use that a term has for the intended audience – who in this case were other Jesuit missionaries. One can see their education and individual styles coming through in the glosses, which can sometimes resemble poetry. Fundementally, however, these are tools that were made to be shared with the specific aim of language learning and communication, so much detail that would be invaluable for historical research is omitted. Thirdly, the significance given to terms is connected to the cultural background of the authors. The Jesuits were, of course, members of an important religious order, with its own particular approach to Christianity. They also belonged to the *ancien régime* class system with its rigid hierarchy. While North America provided a setting in which French social structures were necessarily more flexible, the prevalence of slavery

in Louisiana meant that in many ways class divisions were more harshly enforced than in metropolitan France. The language of the gloss in the dictionaries is infused with these cultural biases, which makes an analysis of these a fraught prospect. Finally, the dictionaries are collaborative works, with the Jesuits relying on Indigenous interlocutors in their construction. They could choose to withhold knowledge of certain aspects of Illinois society for their own reasons, and there are elements, particularly to do with gender, from which the Jesuits would only be vaguely familiar. The extent of this is, of course, hard to establish.

In order to investigate this within the scope of law, three main topics are considered. Firstly, French and Illinois approaches to theft will be considered. This is a topic that, while mentioned in the source material, does not have the same clarity as the question of homicide. Behind this lies both French prejudices and the fact that this is a more banal crime than murder, so less likely to be recorded in depth. Secondly, the question of war captives and servitude will be considered. This is a question of jurisdiction, to whom does the law apply and to what extent? For the French, the administration of law was territorial, even if this was not a principle they were able to apply uniformly in the *Pays des Illinois*. All residing within the territories of the King of France should be subject to his laws, notwithstanding that these had regional differences and held great disparities concerning gender and social status. For the Illinois, the question was whether an individual belonged to their group, was an ally, or whether they were an enemy. What remains unclear, and subject to debate, is the extent to which warfare, and the influx of large numbers of captives in the late 17th century, impacted the Illinois legal order. This will be considered in relation to the final topic, the punishment of female adultery in 18th century Illinois society. The French sources record a society in which

adultery could be punished brutally. These accounts have led some historians to consider Illinois society as being patriarchal, though this does not sit easily with other sources indicating women holding respected roles. As will be discussed, late 17th-century Illinois society appears to have been in a state of legal flux spurred on by increasing warfare and such punishments appear to have been linked to this.

The question of theft

The *Pays d'en Haut* was not a safe place for travellers in the 18th century. One finds numerous complaints about robbery and pillaging, that is the seizing of merchandise while in transit. While these were of a particular concern to the French, as they were seen as a challenge to French authority, they seem to have often been an extension of warfare. For example, during Pierre d'Artaguiette d'Itouralde's failed attack on the Chickasaw in the winter of 1736, "ten horse loads of munitions and goods, including 450 pounds of gunpowder, 1,200 musket balls, and 30 jugs of brandy" were captured, as well as D'Artaguiette and other Frenchmen who were burnt alive as per the customs of war in the *Pays d'en Haut*.⁴ There was also, however, the question of more mundane forms of theft that occur in all societies. These are only to be found occasionally in the writings of the French officers and missionaries in relation to the Illinois. For example, Pierre François-Xavier de Charlevoix noted the following incident that occurred in October 1721:

Les Illinois ont la reputation d'être hardis & habiles Filoux, & c'est la raison pourquoi j'avois fait transporter tout le Bagage à l'autre Bord ; mais malgré cette précaution, & la vigilance de mes Gens, lorsqu'il fallut partir, nous trouvâmes qu'il nous manquoit un Fusil, & quelques bagatelles, qu'il ne nous fut jamais possible de recouvrer.⁵

⁴ David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, p. 65.

⁵ Pierre François-Xavier de Charlevoix, *Histoire et Description Générale de la Nouvelle France*, vol. 3, Paris, Didot, 1744, p. 384.

[The Illinois have the character of bold and dexterous thieves, which is the reason why I caused transport all the baggage to the other side of the river; but in spite of this precaution, and the watchfulness of my people, when we came to set out we found a musquet and some other trifles wanting, which we could never recover.]⁶

While there are not many references in relation to the Illinois, this is a fairly common complaint in French colonial sources. Even as allies, the Frenchmen like François-Xavier de Charlevoix were outsiders with no links of kin to Indigenous people. Such pilfering as he experienced could well have been seen as entirely justified.

Amongst the French communities in the *Pays des Illinois*, theft could be punished harshly. Take, for example, the case of Jean Ducoutray. Branded with a 'V' for *voleur* for the theft of six francs in France, he ended up as a soldier at the Fort de Chartres, probably after being sentenced to deportation. There, in 1752, he stole nine hens, a crime for which he was eventually sentenced as a galley slave in Brest, narrowly escaping being hanged.⁷ Amongst the Illinois, it appears that a more lenient attitude prevailed, with restitution being the aim. According to Nicolas Perrot:

Quand les Sauvages on commis un larcin et qu'il sont reconnus, on les oblige à restituer ou à satisfaire au vol par d'autres effects, en cas qu'il soient dissipés. Si on manquoit à cette satisfaction, celui qui auroit esté volé, se joindroit à plusieurs de ses camarades, iroit tout nud comme s'il alloit aux ennemis, son arc et ses fleches à la main, dans la cabanne du voleur, où il pille et prend tout ce qui luy appartient, sans que le coupable ose rien dire, qui se tient la tete baissée entre les genoux.⁸

[When savages have committed theft and are discovered, they are compelled to make restitution, or to give satisfaction for the theft with other goods in case these stolen are spent. If there should be failure to render this satisfaction, the man who had been robbed would gather several of his comrades, and would go – entirely naked as if he were marching against enemies, and carrying his bow and arrows – into the cabin of the thief, where he plunders and seizes everything that belongs

⁶ Pierre François-Xavier de Charlevoix, *Journal of a Voyage to North America*, vol. 2, Chicago, The Caxton Club, 1923 (1761), p. 189.

⁷ For a full account of Ducoutray's case see David MacDonald, *Lives of Fort de Chartres: Commandants, Soldiers, and Civilians in French Illinois, 1720–1770*, *op. cit.*, pp. 169–174.

⁸ Nicolas Perrot, *Mémoire sur les mœurs, coutumes et religion des sauvages de l'Amérique septentrionale*, *op. cit.*, p. 292.

to him; nor does the guilty man dare to say a word, but keeps his head bowed down between his knees.]⁹

What is interesting here is that the thief is cast as an outsider against whom war should be waged, at least symbolically. The guilty individual's lack of action has similarities to the case of the couple who broke the hunting law by trying to leave the camp and had their goods destroyed by the hunting guards (see Chapter 3). In the case, however, Perrot notes that violence could ensue:

Mais s'il se sent innocent du crime dont on l'accuse, il se jette à ses armes, et s'oppose au pillage. Les spectateurs qui s'y trouvent arrestent les plus emportés, mais s'il n'y avoit que les parties intéressées, l'affaire ne se passeroit pas sans y avoir du sang repandu ou quelqu'un tué.¹⁰

[But if he feels that he is innocent of the crime of which he is accused, he rushes to seize his weapons, and tries to oppose this pillage. The spectators who are present hold back those who are most hot-headed; but if there were only the parties concerned the affair would not pass by without bloodshed, or some one being killed.]¹¹

The account does not provide much detail, but it would appear that public opinion was important in establishing whether such resistance was justified. If it was, we are told that the defender was considered justified in killing the attacker. The limitation in this account is that Perrot was writing generally of Indigenous societies he was familiar with, which raises the question as to what extent this can be applied to the Illinois? In his *Journaux d'un Voyage*, Charlevoix makes the same observation as Perrot, though specifically in relation to the Huron-Wendat.¹² In order to try to better understand this aspect of Illinois legal culture, it is necessary to consider the linguistic sources.

⁹ Nicolas Perrot, "Memoir on the Manners, Customs, and Religion of the Savages of North America," *art. cit.*, p. 138.

¹⁰ Nicolas Perrot, *Mémoire sur les moeurs, coustumes et relligion des sauvages de l'Amérique septentrionale*, *op. cit.*, p. 292.

¹¹ Nicolas Perrot, "Memoir on the Manners, Customs, and Religion of the Savages of North America," *art. cit.*, p. 138.

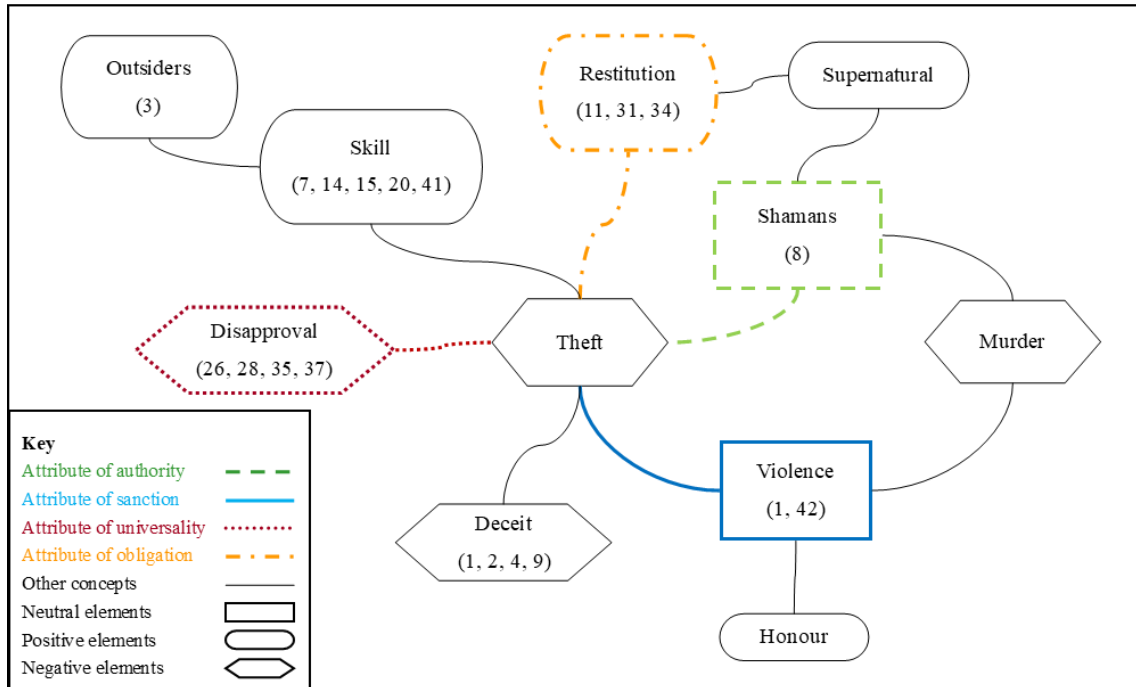
¹² Pierre François-Xavier de Charlevoix, *Histoire et Description Générale de la Nouvelle France*, *op. cit.*, p. 276.

One finds numerous references to theft, robbery and pillaging in the Miami-Illinois–and–French dictionaries (these can be seen in Appendix F, with a relevant selection presented in Table 5.1). There are some 48 entries on this topic, compared to 15 entries on murder (see Table 4.2), indicating as can be expected that this was a more prevalent issue than homicide. Its banality, interestingly, increases its coverage in the dictionaries. This is the opposite to what one finds in the other contemporary sources, where more serious events like murder are given more attention. Most of these are simple descriptive words or phrases, such as <kim8tiagane>, meaning “chose volée [stolen thing].”¹³ Others are more evocative, like <Kim8tiagane mic8si8a>, “on luy a donné ce qu on avoit derobé [people gave him/her what had been stolen].”¹⁴ From the French gloss associated with these terms, one can identify six main themes: authority, deceit, disapproval, restitution, skill, and violence. These have been indicated in Model 5.1, and some similarities can be seen with the Illinois approach to murder. The practice is disapproved of, as well as being connected to deceitful behaviour. It risks leading to violence, though this was seen as being within the rights of the person who had been stolen from. The Medecine Men (and possibly Women) appear to have had a role in discouraging, and possibly resolving, issues surrounding theft. The extent of this, however, cannot be readily established.

¹³ LB, 418:83.

¹⁴ LG, 290:35.

Model 5.1. Conceptual-affective model of the concept “theft”¹⁵



The Jesuits set themselves up in opposition to the the traditional spiritual practices of the Illinois, which may explain the lack of detail on their rivals' roles. The only other indication of the part played by Medecine Men concerning theft comes from De Liette's account of one justifying his use of defanged rattlesnakes to mollify the youth, as this gave him the authority to remonstrate them when robberies occurred.¹⁶ It is also of interest that the act of theft could be seen as skillful. This may have been in connection to theft from an outsider, rather than within one's community, such as might occur while a war party was living off the land. It could also indicate an ambiguity towards theft depending on who was the target of action. The question remains as to why there are just over three

¹⁵ The numbers in parentheses refer to entries in Table 5.1.

¹⁶ Pierre-Charles De Liette, "Memoir of De Gannes [De Liette] Concerning the Illinois Country," *art. cit.*, p. 374.

times more entries concerning theft than murder in the Miami-Illinois–and–French dictionaries (see Table 5.1).

Table 5.1. Selected entries relating to *vol* [theft]¹⁷

<i>Nº</i>	<i>Miami-Illinois manuscript</i>	<i>French or Latin gloss</i>	<i>English translation</i>	<i>Source</i>
1	Etchir8canga	jambe ou cuisse brulee. Metaphor. fol, folle. impureté, vol, mensonge	burned leg or thigh. Metaphor. crazy, impurity, theft, lie	LG, 162:37
2	Kigissaca naĩ chirinitchi	vraymant tu as raison il trompe au jeu c est une personne bien rusee. ironice d̄r. item il n'est pas capable de voler ainsy	you are truly correct, he cheats in the game. He is a quite crafty person <i>ironically it is said also</i> he is not capable of stealing so	LG, 196:35
3	Kikipataki8a	il s'enfuit apres avoir volé, pillé	he flees after having stolen, pillaged, ransacked	LG, 201:28
4	Nikimip8i	je mange en secret, je vole pour manger	I eat in secret. I steal in order to eat	LG, 204:30
7	Kim8teski8a	C est un voleur de profession	He is a professional thief	LG, 204:39
8	Mantchitagane	ce que le jong. plante dans son champ p̄r faire peur empescher qu on ne vole	what the shaman plants in his field to cause fear, to keep people from stealing	LG, 247:28
9	Nimiache8i	je prend pille, vole ce qu'on donne a un autre p̄palement quand on chante le calumet. Je prend la boule avec la main au lieu de la crosse	I take, plunder, steal what is given to another, especially when the pipe is being sung. I take the ball with my hand instead of the lacrosse stick.	LG, 282:25:1
11	Kim8tiagane mic8si8a	on luy a donné ce qu on avoit derobé	people gave him/her what had been stolen	LG, 290:35
14	Naĩchirinita	adroit, fin, rusé, habile a faire, surtout a voler tromper	smart, clever, astute, sharp, discriminating, clever at doing things, especially stealing, tricking	LG, 312:9
15	Nĩrintchita	trompeur, habile voleur, ruse fripon, qui fait sa main	trickster, capable thief, sly rascal, (one) who does his hand	LG, 313:23
26	tig8emikina	mechant dont volé	a bad person from whom... stolen	PN, 176:6
28	Kĩma kim8ti8ni maiaconki8o	D. defend le vol	God forbids stealing	LB, 164:72

¹⁷ A full table is presented in Appendix F and the numbers indicated here correspond to that list.

31	nikim8timec8o nimororintans8 pita8inki	on m a volé je n ai point d esperance qu on me le rapporte	I have been robbed. I have no hope at all that it will be returned to me	LB, 172:43
34	arinta ap8nam8nta kim8tiagana mamistag8chia	on a rendu une partie du vol au franc.	a part of what was stolen from the Frenchman was returned	LB, 362:19
35	kim8ti8ni nintetira	Je le s. de m avoir volé	I suspect him/her of having stolen from me	LB, 386:47
37	tepasin8i kim8temitchi	cela n est pas bien qu il m ait volé	that is not good that he stole from me	LB, 418:82
42	nitat8ra8a	Je le tue a la volée	I kill him during the theft	LB, 418:89

There are a number of interrelated possibilities to answer this imbalance. Theft would appear to have been a much less serious yet more frequent crime than murder in Illinois society (as it generally is), so it would have been something that the Jesuits would have encountered more often. It is also possible that, as outsiders, they may have been victims of such petty thefts with a greater frequency than would have been the case if they had been Illinois. Another possibility is that the harshness by which theft was punished in the French legal system led the Jesuits to consider this to be a more serious crime than their Illinois interlocutors. While theft within a community was clearly disapproved of, it appears that what worried the Illinois leaders was the potential that such actions could escalate into violent confrontations rather than in the question of ownership. The accumulation of possessions was not connected to higher social status in Illinois society as it was for the French.¹⁸ The gloss for <mamiarica8o nitintaracanta> reads “il ne fait que Voler mon Esclave [he is only stealing my slave, he just steals my slave],” which would have been a surprising statement for the French.¹⁹

¹⁸ Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slaveries in New France*, op. cit., p. 55.

¹⁹ LB, 418:85.

War captives

The last point leads to another aspect of the Illinois legal culture, that of the interplay between slavery and warfare. Another term connected to theft, «etchirɔcanga», is of interest. Its literal meaning is given as “jambe ou cuisse brulee [burnt leg or thigh].”²⁰ The burning of the thigh was a practice that can be found elsewhere in the *Pays d'en Haut* and beyond, as part of the ritual tortures reserved for war captives selected to die.²¹ It is also noted as a metaphor for “fol, folle. impureté, vol, mensonge [crazy, impurity, theft, lie],” which brings together concepts for madness and anti-social behaviour. The connection between the ideas of momentary madness and criminal responsibility were raised in relation to the Perillault case. Here, however, it is interesting to consider the fate of war captives in Illinois society. This ties to the question of murder as war was the ultimate sanction for this. Bringing back captives (or scalps) was an integral feature of warfare in the *Pays d'en Haut*.²² Indeed, these could be used to cover the dead, showing an intertwining of these concepts. In the Miami-Illinois–and–French dictionaries the term *esclave* is used to indicate both a war captive and an enslaved person, the former status potentially leading to the latter. Here there is a problem of translation, the *Dictionnaire de l'Académie Française* defines *esclave* as “Qui est en servitude & dans l'entiere disposition d'un maistre [Who is in servitude & at the entire disposition of a master (my translation)].”²³ For the colonial empires, however, Early Modern slavery had a distinct

²⁰ LG, 162:37.

²¹ For an example, see JR, vol. 46, pp. 98–100; Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, *op. cit.*, p. 43.

²² See, for example «Nipitchikiatta8a» which is given as “je luy aporte des chevelures, des Esclaves que je luy donne [I bring him/her some (scalped) hair, some slaves that I am giving him/her],” LG, 479:11.

²³ L'Académie française, *Le Dictionnaire de l'Académie française*, vol. 1, Paris, Jean Baptiste Coignard, 1694, p. 235. The term, a reference to the Slavs, began to be associated with servitude in the 9th century. Interestingly, the other word used to identify Indigenous slaves by the French, *panis*, is of similar ethnic

racial aspect which was not present in Indigenous forms of servitude, beyond the fact the those who were captured at war came from outside the social group into which they would be incorporated. When referring to this act of incorporation the metaphor of the captive being eaten was evoked, a term that was also used in connection to warfare. Ritual anthropophagy was a feature in warfare in the *Pays d'en Haut*, and some sources hint at a group of men and women called “mangeurs de hommes [man-eaters]” due to their participation in this practice.²⁴ As Trowbridge remarked, “the extreme reluctance to acknowledge any connection, however distant, with this society, I have found it difficult to obtain anything like a distinct account of it,” and he noted that the practice had ceased sometime before the 1780s.²⁵ While there is no purpose in speculating as to their nature, it is important to note that there were no doubt important institutions in Illinois society that the French sources do not record as they were actively excluded from obtaining knowledge of these. Institutionalized or not, anthropophagy was a feature of war in the *Pays d'en Haut*. On the killing, boiling, and eating of Myaamian leader Memeskia (known as “La Demoiselle” to the French and “Old Briton” to the English) in 1752, Michael McDonnell notes:²⁶

While reports of ritual cannibalism are rare in this era, the Anishinaabeg were one of the few Indian peoples who did practice it. As one captive later suggested, they turned to cannibalism not “for want of food, but as a religious ceremony, or rather, from a superstitious idea that it makes them prosperous in war.” The attackers literally reabsorbed the

origin, referring to the Pawnee people. This became a generic term for an Indigenous slave in New France, and it is not clear whether it began because there were a significant number of enslaved Pawnee at one point, or because the Pawnee were trading slaves with the French. “Slave” in “Oxford English dictionary,” *art. cit.*; Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, *op. cit.*, pp. 165–173.

²⁴ Pierre-Charles De Lette, “Memoir of De Gannes [De Lette] Concerning the Illinois Country,” *art. cit.*, p. 386; Charles Christopher Trowbridge, *Meeārmeeār Traditions*, *op. cit.*, p. 88.

²⁵ Charles Christopher Trowbridge, *Meeārmeeār Traditions*, *op. cit.*, pp. 88 and 90.

²⁶ Michael A. McDonnell, *Masters of Empire: Great Lakes Indians and the Making of America*, New York, Hill and Wang, 2015, p. 142.

rebellious chief and his powers – or manidoog – into their own alliance.²⁷

Often, however, references to the eating of enemies were metaphorical, just as the terms for freeing prisoners could be associated to vomiting.²⁸ Compare the terms <Nisicarema> meaning “je le jette de ma bouche, vomis, crache. [I discard him from my mouth, vomit, spit],” <Nisicarintama8a ac8i8ssemahi> meaning “I release his prisoners to him/her” and <Kisicarintam8re kic8e8ssema, miaran8i ki8ihis88imiand> “je done la vie a cinq prisoniers [I give life to five prisoners].”²⁹

What is clear is that the status of war captives in Illinois legal culture was dependent on the fact that they could have been legitimately killed. This interplay between war and slavery can be seen in Appendix E, which lists the entries connected to the French word *esclave* in the dictionaries. There are 35 entries that refer to war captives, and 26 that refer to servitude, the rest being ambiguous in their application.³⁰ Of interest is <Arem8a>, the word for “chien, beste domestique. et par mepris Esclave. [dog, domestic animal. and with disdain: slave].”³¹ This is mirrored in Joseph Ouissakatchakoüé speech for clemency for André Perillault “pardonnés luy donc je vous en prie, tournés plutôt votre colere vers moy, si vous voulés, qui ne suis qu’un chien [Pardon him, then, I pray you,

²⁷ *Ibid.*, p. 154.

²⁸ This practice, however, struck the European imagination. For example, one of the two remarks on specific North American Indigenous societies in Montesquieu’s *L’esprit des loix* (1748), mentions anthropophagy: “Toutes les nations ont un droit des gens; et les Iroquois même, qui mangent leurs prisonniers, en ont un. Ils envoient et reçoivent des ambassades; ils connoissent des droits de la guerre et de la paix [All countries have a law of nations, not excepting the Iroquois themselves, though they devour their prisoners: for they send and receive ambassadors, and understand the rights of war and peace.] Charles Louis De Secondat baron de Montesquieu, *De l’esprit des lois*, vol. 1, Paris, Librairie Garnier Frères, 1922 (1748), p. 5-6 (book 1, ch. 3); *Ibid.*, *The Spirit of the Laws*, trans. Thomas Nugent, New York, Hafner Press, 1949, p. 5.

²⁹ This has been highlighted by Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, *op. cit.*, p. 39; the terms are drawn from LG, 527:31 and 527:33 respectively, the translation of the second entry is from the ILDA.

³⁰ Those concerning war captives are numbers 6, 8, 16, 18, 19, 20, 26, 27, 29, 30, 36, 39, 41, 46, 49, 50, 52, 53, 54, 58, 59, 60, 61, 62, 71, 73, 74, 75, 83, 85, 86, 87, 106, 109 and 110. For servitude, these are 3, 4, 5, 9, 10, 11, 12, 13, 22, 25, 28, 29, 31, 32, 35, 38, 40, 41, 44, 45, 48, 56, 64, 88, 108 and 113.

³¹ LG, 59:24.

turn your anger against me, if you wish, I am but a dog].”³² This was, of course, a rhetorical flourish (Ouissakatchakoüé began and finished his speech with this reference), but it also underscored the fact that the French treatment of Perillault was seen as being akin to the fate reserved for an outsider, a war captive. Where the Illinois seem to have rarely resorted to executing one of their own, ritualized torture of war captives was a relatively common event. Those who were captured at war were brought back to the village (though some captives could be killed on the march back to the village).

Le lendemain à l’aube du jour ils parent leurs Prisonniers de robes neuves, leur accommodent les cheveux avec du duvet, leur peignent le visage de différentes couleurs, & leur mettent à la main un bâton blanc, environné de queue de Chevreuils. En même-tems le Chef de guerre fait un cri, & tout le Village s’assemble au bord de l’Eau, si l’on est près d’une Riviere.³³

[On the morrow at day-break they attire their prisoners in new robes, dress their hair with down, paint their faces with different colours, and put in their hands a white staff surrounded with the tails of deer. At the same time, the war-chief shouts, and the whole village assembles at the waterside, provided it happens to be near a river.]³⁴

The staff is given as «Atetipacah8mari» in the Largillier-Gravier Dictionary, for which the gloss reads “le baton de l’esclave ou sont entortillés des plumes tout autour [the stick of the slave where feathers are twisted all around (it)].”³⁵ These feathers (though Charlevoix referred to deer tails) may have played a sacred role similar to those on the Calumet.³⁶ This was a moment of high tension, in which life and death stood side by side as the captives could face either ritual torture or adoption. In the latter case, their status would still be significantly lower than other members of the society. It should be noted, however,

³² ANOM, COL C_{13A}, vol. 7, f. 323r.

³³ Pierre François-Xavier de Charlevoix, *Histoire et Description Générale de la Nouvelle France*, op. cit., p. 382.

³⁴ Pierre François-Xavier de Charlevoix, *Journal of a Voyage to North America*, vol. 2, Chicago, The Caxton Club, 1923 (1761), p. 187.

³⁵ LG, 573:17.

³⁶ Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, op. cit., p. 31.

that while the Jesuits used the term *esclave*, for these individuals this was a markedly different institution than the chattel slavery of the colonial powers. While captives could be seen as possessions, and were used for dowries or as part of the ritual of covering the dead, Illinois conceptions of property were very different from French principles, as has been mentioned.³⁷ It is also true that captives could also be beaten or even killed without the protection of the law, insofar as they did not have the protection of a kinship network beyond the family into which he or she had been brought into.³⁸ On the other hand, the forms of labour to which they could be put was shared by all members of Illinois society. They also had, with time, the possibility of being recognized as members of the group, if they could develop the social networks that were essential to Illinois society.

Those who were saved were washed and taken to their new masters.³⁹ This is a remarkably similar practice to baptism, and indeed the French practice of baptizing their slaves has interesting parallels, it meant an incorporation into French society but not one that ensured the enslaved of the same rights and privileges as the free. Likewise, adoption of war captives amongst the Illinois in the 18th century did not appear to be granted equal status. On the question of how long positions of servitude lasted, Daniel K. Richter has noted that the use of the term *esclave* by the French clouded the nature of this servitude in the *Pays d'en Haut*. Talking of the Iroquois, he noted that, “more plausibly, ‘slaves’ were adoptees who were not measuring up and whose relatives assigned them the most menial tasks as punishments and as inducements to imitate their captors’ ways in the future.”⁴⁰

³⁷ See LG, 379:26 and 380:15

³⁸ For a detailed discussion on Illinois slavery, see Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, *op. cit.*, pp. 15–71.

³⁹ LG, 61:17 and 409:17.

⁴⁰ Daniel K. Richter, *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization*, Chapel Hill and London, University of North Carolina Press, 1992, p. 69.

As has been mentioned, law is dynamic and the status of captives no doubt changed as their ties to Illinois society changed, a question that will be returned to later in relation to the punishment of adultery.

For those for whom death was reserved, they were tied to a pole or frame in the village and subjected to a series of tortures, the principal of which was being burnt (as mentioned, this was a fate suffered by the younger D'Artaguiette brother). Accounts differ to the length and nature of these tortures, De Liette notes that these could continue for over six hours, while Charlevoix indicates that it could be much shorter.⁴¹ This was no doubt a reflection of the fierceness of recent warfare and the desire for vengeance for loved ones lost. These were situations in which both parties had a part to play. A warrior awaiting death had a role to fill for which they prepared from a young age.⁴² “Le supplicié, idéalement, n’a donc rien d’un pantin désincarné et apeuré; il est un acteur décisif de ce jeu convenu et ritualisé avec la mort, qui se pratique d’un camp à l’autre avec la même intensité [The torture victim, ideally, is not a frightened puppet; he is a decisive actor in this ritualized and prearranged death game, which is practised with the same intensity in both camps (my translation)].”⁴³ According to De Liette, the blood of the killed warrior was seen as having particular power, with women bringing male infants to be washed in this, again showing the important connections between blood and war.⁴⁴ The power of the spirit of the dead warrior is illustrated in the gloss for <Sacacapiro>:

⁴¹ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 385; Pierre François-Xavier de Charlevoix, *Histoire et Description Générale de la Nouvelle France*, *op. cit.*, p. 383.

⁴² Arnaud Balvay, *L'Épée et la plume : Amérindiens et soldats des troupes de la Marine en Louisiane et au Pays d'en Haut, 1683–1763*, *op. cit.*, pp. 174–176.

⁴³ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, *op. cit.*, pp. 158–159.

⁴⁴ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 386.

demeure dans ta cabanne, dit on, quand on brule un Esclave, montre toy a peine de peur que son ame ne t'emporte, frape les apacois de peur que l'ame de l'esclave qu on brule n y soit attachée, fais la s'enfuir.

[Stay in the lodge! people say when a slave is being burned. Scarcely show yourself for fear that his/her soul will carry you away! Strike the reed mats for fear that the soul of the slave that is being burnt does not become attached, make them flee (my translation)]⁴⁵

As well as «matchitipe8o sacacapiro», which is given as “Les guerriers en criant et frappant Sur les cabanes disent il est mort en miserable (L esclave Bruslé Laissez aller son ame en son païs) [the warriors crying out and striking the lodges say, he has died in a wretched way (the burned slave, let his soul go to his country)].”⁴⁶

While a fact of warfare in the *Pays d'en Haut*, in the 18th century, the practice of torture apparently spread from Iroquoian to Algonquian societies in the pre-contact period.⁴⁷ It should also be understood that, from a cultural point-of-view, torture itself was and integral part of *ancien régime* France's culture. A review of the entry for *supplice* [torment] in the *Dictionnaire de l'Académie Française* makes this clear:

Punition corporelle ordonnée par la Justice. Le supplice de la roue, du gibet, du foüet, de la fleur de lys, cruel, horrible supplice, nostre Seigneur a souffert le supplice de la Croix pour nous racheter.

On dit, *condamner quelqu'un au dernier supplice*, pour dire, Le condamner à mort. Dans le mesmes sens, *Mener au supplice*, signifie ordinairement, Mener à un supplice, qui est suivi de la mort.⁴⁸

[A corporal punishment ordered by the Justice. The punishment of the wheel, the gibbet, the fleur de lys, cruel, horrible torment, our Lord suffered the punishment of the cross to deliver us.

One says, *condemn someone to the ultimate torment*, to mean condemn him to death. In the same sense, *brought to torment*, usually means to conduct to the Place of Execution. (my translation)]⁴⁹

⁴⁵ LG, 517:32.

⁴⁶ LB, 158:14.

⁴⁷ Alan Taylor, *American Colonies: The Settling of North America*, *op. cit.*, p. 103.

⁴⁸ L'Académie française, *Le Dictionnaire de l'Académie française*, *op. cit.*, p. 517.

⁴⁹ “Supplice” in Boyer, ed., *art. cit.* has been used to aid this translation.

Where the French and Illinois differed was on the question of who could torture and who could be tortured. This mirrors the division between these societies on capital punishment. For the French, criminals could only be tortured under the ultimate authority of the king as part of the judicial process. In the colonies, such tortures could also be unleashed on the enslaved, though the *Code noir* was supposed to regulate this. For the Illinois, it was the outsider captured at war who would be subjected to such treatment, and this only at the crucial moment of between capture and adoption. Capture would, therefore, cast the individual as an outsider who could be killed or rendered to a servile position. Here the concept of social death, “a kind of total annihilation of the human subject” applied to both the adopted captives.⁵⁰ This said, Indigenous approaches to warfare were adopted to varying extents by the French in the *Pays d’en Haut*, according to Antoine Laumet *dit de Lamothe Cadillac*:

Cet usage de supplicier ainsi estoit autrefois en horreur aux François, mais [...] les François sont, à la fin, mis sur le pied de les brusler avec toutes sortes de cruautéz, tant il est vray qu’avec les loups on apprend à heurler.⁵¹

[This customary torture was, in the past, looked upon with horror by the French but [...] the French did, in the end, begin to burn them with all sorts of cruelties; so it is true that with wolves one learns to howl. (my translation)]”

Though the extent of this is not clear, and Cadillac was prone to exaggeration and self-promotion.

The same legal principles of covering the dead could, however, be invoked in order to save the life of a captive. This appears to be the case of the wife of Michel Aco (the son of Marie Rouensa-8canic8e), who was “retirer du feu [withdrawn from the fire]” by the

⁵⁰ Daniel H. Usner, *Indians, Settlers, and Slaves in a Frontier Exchange Economy*, Chapel Hill (N.C.), University of North Carolina Press, 1992, p. 61.

⁵¹ Pierre Margry, *Découvertes et établissement des Français dans l’Ouest et dans le Sud de l’Amérique Septentrionale, 1614–1754*, *op. cit.*, p. 100.

French in 1726.⁵² The account of this shows the Pierre-Charles de Liette's concern for the expense of the endeavour, which he did not think could be recuperated. It would appear that the Illinois regarded this as an extension of their alliance with the French. De Liette did write that the women in question "passoit pour la fame de Michel Aco [was passing for the wife of Michel Aco]," though this is likely a reference to the fact her marriage to Aco was not a Christian one (there is no record of it in the Kaskaskia parish register).⁵³

The punishment of adultery

The final aspect of the Illinois legal culture is the punishment of adultery, which is also the element of Illinois jurisprudence that has been the focus of the most scholarly discussion. Women who committed adultery could be subjected to harsh physical punishments: disfigurement, scalping and gang rape are recorded in the French sources. Raymond E. Hauser discusses this in relation to the Illinois legal order, albeit briefly.⁵⁴ A wider discussion is found in Gilles Havard's "« Il s'est levé plus de cent chevelures de femmes » : guerre et relations entre les sexes chez les Illinois (fin du XVII^e siècle)" (2004).⁵⁵ Havard addresses the assumption made by Hauser, Richard White and Susan Sleeper-Smith of male domination amongst the Illinois. For these authors, both polygyny and the punishment of adultery were indicative of the oppression of Illinois women.⁵⁶

⁵² "Extrait d'une lettre écrite par monsieur de liette capitaine et comendant au fort de chartre au ilinois a monsieur de Lignery capitaine en canada et comendant general du pays sauvage", 15 October 1726, ANOM, COL C_{11A}, vol. 49, f. 467.

⁵³ Carl J. Ekberg and Anton J. Pregaldin, "Marie Rouensa-8canic8e and the Foundations of French Illinois," *art. cit.*, p. 214.

⁵⁴ Raymond E. Hauser, "An Ethnohistory of the Illinois Indian Tribe, 1673–1832," *op. cit.*, pp. 301–302.

⁵⁵ Gilles Havard, "« Il s'est levé plus de cent chevelures de femmes » : guerre et relations entre les sexes chez les Illinois (fin du XVII^e siècle)," *art. cit.*, pp. 634–639.

⁵⁶ Raymond E. Hauser, "An Ethnohistory of the Illinois Indian Tribe, 1673–1832," *op. cit.*, pp. 240–241; Susan Sleeper-Smith, *Indian Women and French Men: Rethinking Cultural Encounter in the Western Great Lakes*, Amherst (Mass.), University of Massachusetts Press, 2001, pp. 23–37; Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*, *op. cit.*, pp. 62–63.

Havard disagreed, seeing this assumption as being imbued with ethnocentrism. He argued that while there was a male superiority over women in Illinois society, this was limited to the symbolic and ritual spheres of society.⁵⁷ While not dismissing the brutal treatment that Illinois women could be subjected to, Havard connected the punishment of adultery not with women's social inferiority but rather to the nature of war in the *Pays d'en Haut*. Many women were captured from other tribes and adopted into Illinois families. Committing adultery, he argued, was seen as the breaking of an alliance, and the woman was seen as having the same status as a war captive, becoming an outsider whether she had originally been a captive or not. While Havard considered that punishment for adultery could apply to both women born into Illinois families and those captured at war, Rushforth considers that this treatment was likely reserved for those who had the status of captives, "Rather than a pervasive feature of all Illinois gender relations, then, this violence may be what they called *tchekikic8 kiki8na8iki epinatonghi* 'that which one does to a slave'."⁵⁸ It seems likely that Havard's position is more accurate, insofar as there is no indication in the source material that the punishments for adultery were reserved to those who had been captives (though this was probably the most frequent occurrence). This said, law is a dynamic process, and so Illinois attitudes to adultery described here should be taken as being in place in the late 17th and early 18th century, a period of heightened warfare and large numbers of captive women being brought into their society. Trowbridge, writing in the beginning of the 19th century, noted that in cases of adultery the husband would seek vengeance on the man who had slept with his wife, in much the

⁵⁷ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d'en Haut, 1660–1715*, op. cit., p. 637.

⁵⁸ Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France*, op. cit., p. 69; the phrase is from LB, 206:31.

same way as theft was dealt with in 18th century Illinois law.⁵⁹ He does not mention a punishment for the woman, and indicates that men and women could freely divorce, indicating a shift in legal practice (and possibly a return to an earlier standard).⁶⁰

Nevertheless, the late 17th century was a period when harsh punishments could be inflicted on women in Illinois society. The punishment for adultery amongst the Illinois was amongst the first things remarked upon by the French who encountered them. This was not a practice unique to the Illinois or Myaamias, but one found in various nations. Radisson and Groseilliers, “returning from their second western voyage,” provided the following account, recorded in the *Jesuit Relations*:⁶¹

Revenons à nos deux François : continuant leur ronde, ils furent bien surpris en visitant les Nad8echi8ec; ils virent des femmes défigurées, et à qui on avoit coupé le bout du nez iusqu’au cartilage, de sorte qu’elles paroisoient en cette partie du visage, comme des testes de mort; de plus, elles avoient sur le haut de la teste une partie de la peau arrachée en rond. S’estant informez d’où prouenoit ce mauuais traitement, ils apprirent avec admiration que c’estoit la loy du païs, qui condamne à ce supplice toutes les femmes adulteres, afin qu’elles portent gravées sur le visage la peine et la honte de leur peché : ce qui rend la chose plus admirable, c’est que chaque homme ayant en ce païs-là sept ou huit femmes, et par consequent la tentation estant bien plus grande parmi ces pauvres creatures, dont les unes sont tousiours plus cheries que les autres, la loy neantmoins se garde plus exactement qu’elle ne feroit peut-estre dans les Villes les mieux policées, si elle y estoit établie.

[Let us return to our two Frenchmen. Continuing their circuit, they were much surprised, on visiting the Nadwechiwec, to see women disfigured by having the ends of their noses cut off down to the cartilage; in that part of the face, then, they resemble death’s heads. Moreover, they have a round portion of the skin on the top of their heads torn away. Making inquiry as to the cause of this ill treatment, they learned, to their admiration, that it is the law of the country which condemns to this punishment all women guilty of adultery, in order that they may bear, graven on their faces, the penalty and shame of their sin. What renders this custom the more admirable is that, although each man in that country has seven or eight wives, and temptation is, consequently, much stronger among those poor creatures, some of whom are always more cherished than the others, yet the law is more strictly executed there than

⁵⁹ Charles Christopher Trowbridge, *Meeārmeeear Traditions*, *op. cit.*, p. 17.

⁶⁰ *Ibid.*, p. 44.

⁶¹ Reuben Gold Thwaites and Edna Kenton, ed., *The Jesuit relations and allied documents: travels and explorations of the Jesuit missionaries in North America (1610–1791)*, Toronto, McClelland and Stewart, 1925, p. 312 (footnote).

it would be perhaps in the most highly civilized Cities, if it should be established therein.]⁶²

Of course, the violent nature of the punishment drew the attention of both writer and reader. One needs remember, however, that amputations, disfigurements, brandings, and other punishments of the body were mundane occurrences in Early Modern Europe, where contemporary images of country life often included a suspended wheel or gibbet in the background.⁶³ The author, however, is not particularly shocked by this account, but considers it a surprising yet laudable means of maintaining sexual morality. In 1669–70, Jacques Marquette noted of the Illinois:

[...] ceux que j'ay vû parroissent estre d'assez bon naturel; ils ne courent point les nuits à la façon des autres Sauvages: Un homme tuë hardiment sa femme s'il apprend qu'elle n'ait pas esté fidelle, ils sont plus retenus dans leurs Sacrifices, & me promettent d'embrasser le Christianisme, & de faire tout ce que je diray dans le Pays.

[Those whom I have seen seem to be of a tolerably good disposition: they do not go about at night, as do the other Savages; a man boldly kills his wife if he learns she has not been faithful; they are more moderate in their Sacrifices; and they promise me to embrace Christianity, and observe all that I shall say in the Country.]⁶⁴

This was written at La Pointe du Saint-Esprit mission on Chequamegon Bay, located on the western shore of Lake Superior.⁶⁵ Here Marquette had met an Illinois delegation, though the source of his information here is not clear. He could be repeating what he had heard said of the Illinois, or an event that occurred at the mission. Marquette's assertions cannot be taken as proof of a legal right of the husband to kill an unfaithful wife in the Illinois legal order, as it predates his residence amongst the Illinois and is not supported by other sources. It is interesting to note the inclusion of this phrase in a list of positive

⁶² JR, vol. 45, pp. 234–237

⁶³ Mitchell B. Merback, *The Thief, the Cross, and the Wheel: Pain and the Spectacle of Punishment in Medieval and Renaissance Europe*, Chicago, University of Chicago Press, 1999.

⁶⁴ JR, vol. 54, pp. 186–7.

⁶⁵ Monet, J., "Marquette, Jacques," *Dictionary of Canadian Biography*, vol. 1, 1979.

qualities. Marquette appears in this instance to be underlining the importance of fidelity amongst the Illinois, which he contrasts to the sexual freedom found in other Aboriginal societies. For a Jesuit in the 17th century, this would have been of a disturbing immorality. This explains why Jacques Marquette, in his account of his first voyage down the Mississippi, could juxtapose this practice with the gentle nature of the Peoria:

Leur naturel est doux est traitable, nous l'avons Experimenté dans la reception qu'ils nous ont faite. Ils ont plusieurs femmes donts ils sont Extremement jaloux, ils les veillent avec un grand soin et ils Leurs Coupent Le nez ou les oreilles quand elles ne sont pas sages, j'en ay veu plusieurs qui portoient les marques de leurs désordres.

[They are of a gentle and tractable disposition; we Experienced this in the reception which they gave us. They have several wives, of whom they are extremely jealous; they watch them very carefully, and Cut off Their noses or ears when they misbehave. I saw several women who bore the marks of their misconduct.]⁶⁶

The reality of such mutilations is not in dispute, however. They are recorded in numerous places in the late 17th and early 18th centuries. De Liette wrote that “depuis que j'ay ete dans ce pays la il s'est levez plus de cent chevelures de femmes [Since I have been in this country more than a hundred women have been scalped].”⁶⁷ And Diron d'Artaguiette noted in his Journal:

Les femmes mariées entretiennent fort peu de galanteries quoy quelles soient toutes naturellement portées a l'amour, par la crainte qu'elles ont du chastiment car leurs marrys qui sont jaloux plus que des Espagnols leur levant la chevelure pour [...] qu'ils ont de leur infidélité. Pour les filles elles sont maîtresses de leurs corps pour ne servir de leur expression.⁶⁸

[The married women indulge very little in gallantry (although they are all naturally inclined towards love) because of their fear of punishment, for their husbands, who are more jealous than the Spaniards, scalp them

⁶⁶ JR, 59, pp. 126–127.

⁶⁷ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 337.

⁶⁸ “Journal de Diron d'Artaguiette”, 1 September 1722 to 10 September 1723, ANOM, COL C_{13C}, vol. 2, f. 246r.

upon the least proof of their infidelity. As for the young girls, they are the mistresses of their own bodies (to use their own expression).]⁶⁹

The term <8abikiskininta> is given as “teste pelée, ou en partie, a qui on a arrache les cheveux [stripped, peeled head, or partially so, someone who has had their hair torn off].”⁷⁰ The practice of scalping was a persistent feature of warfare in the *Pays d’en Haut* and beyond. The amount of scalp cut did not need to be particularly large, a diameter of 4 cm (1.5 in) would be sufficient, though sometimes the whole head of hair would be taken.⁷¹ While scalps were regularly taken from the dead, the operation was not in its own right lethal – though it was disfiguring. The preparation of scalps, in which they would be stretched and mounted on a hoop, was a ritual affair. In 1680, La Salle noted that the Iroquois took scalps from Illinois women as well as captives.

Nous y trouvâmes aux arbres les portraits de leurs chefs et le nombre de soldats que chaqu’un menoit. Ils estoient cinq cent quatre-vingt-deux, et l’un d’eux estoit représenté percé d’un coup de fuzil, neuf autres blessez de flèches [...] Ils y avoient aussi dépeint une femme Illinoisaise qu’ils avoient prise et les chevelures de onze autres qu’ils avoient tuez.⁷²

[We found fixed to trees the portraits of their leaders and the number of soldiers they led. They were five hundred and eighty-two, and one of them was shown pierced by a musket ball, nine others were wounded by arrows [...] They had painted an Illinois woman who they had scalped and eleven others they had killed. (my translation)]

In the Miami-Illinois dictionaries there are many entries connected to scalping, though most are simple entries or are concerned with the taking of scalps at war. A number, however, are indicative of the penalty for adultery, though this is not directly mentioned. Most notable are <Chichiperiking8e8a>, meaning “Elle a les Soucils elevees en haut

⁶⁹ Diron d’Artaguiette, “Journal of Diron d’Artaguiette, Inspector General of Louisiana, 1722–1723,” *art. cit.*, p. 73.

⁷⁰ LG, 365:32.

⁷¹ See, for example, George Bird Grinnell, *The Cheyenne Indians: Their History and Ways of Life*, vol. 2, Lincoln and London, University of Nebraska Press, 1972, p. 37, where he compares the amount of scalp normally taken to the size of a silver dollar, that is 1.5 in.

⁷² Pierre Margry, *Découvertes et établissement des Français dans l’Ouest et dans le Sud de l’Amérique Septentrionale, 1614–1754*, *op. cit.*, p. 132.

d'avoir Eu la chevelure enlevee 8g [her eyebrows are raised up for having her hair scalped e.g.],” and <Mechichaki8a>, for which the gloss reads “teste rase sans chevelure, chevelure levée ou la cicatrice paroist [shaved head without hair, lifted hair, where the scar appears (my translation)].”⁷³ There is also <ametchikikich8nta mitem8ssa> for “chevelure enlevée [a scalped woman].”⁷⁴

On the practice of capturing women at war, one can consider an observation made during the 1678–82 expedition led by La Salle (recorded between 1684 and 1685 by Jean-Baptiste Minet). Here the Illinois intention to go to war to capture women and children to replace those taken by the Iroquois is recounted:

Quelque Illinois qui s'estoient sauvé dans le bois, vinrent p[ou]r amasser du mays, il scut par eux leurs deffaites et que les guerriers estoient allé a 150 lieuës au bas de la riviere pour remonter un autre qu'on apelle des missouris du nom d'une nation qui habite sur cette riviere qui sont leurs allies et devoient remonter ce fleuve pour aller En guerre au pana pour prendre leurs femmes et anfans pour remplacer ceux que les Iroquois leurs auvoient prit.⁷⁵

[Several Illinois who had saved themselves in the woods came to collect maize. He learnt from them about their defeats and that the warriors had gone 150 leagues downriver to go up another called the Missouris, after the name of a nation that lives there and is allied with them. They were going to go up this river in order to wage war on the Pawnee in order to seize their women and children to replace those that the Iroquois had taken. (my translation)]

All this underlines the fact that it appears likely that in both these cases it is captive women who could be subjected to such treatment, as has been mentioned:

As mutilation (including nose cropping) carried specific symbolic meaning for slaves, and as an enslaved woman would have no father, uncles, or brothers to protect her from her husband's wrath, enslavement may help to explain how such violent acts could be tolerated by the Illinois. Rather than a pervasive feature of all Illinois gender relations,

⁷³ LG, 117:36 and 265:7, respectively.

⁷⁴ LB, 134:43.

⁷⁵ Jean-Baptiste Minet, “Voyage fait du Canada par dedans les terres allans vers le sud dans l'année 1682”, Library and Archives Canada, 1684–85, p. 16.

then, this violence may be what they called *tchekikic8 kiki8na8iki epinatonghi*: “that which one does to a slave.”⁷⁶

Though it is more than possible that such practices could impinge themselves on the treatment of all Illinois women.

Adultery was not the only cause of offence that could result in a violent attack on a woman. To be held responsible for her husband’s death by her in-laws, and to remarry too quickly, could also lead to a woman being cast as an enemy. A period of sexual abstinence after marriage was seen as honourable, whereas the birth of a child too rapidly afterward as dishonourable.⁷⁷ In the case that a man was seen as being rejected by his wife, and to have gone to war and perished as a consequence, the woman could be held responsible. Interestingly, Chief Rouensa is recorded as using the threat “qu’il iroient à la guerre et qu’elle le reverroit pas [that he would go to war, and that she would see him no more]” when trying to persuade his daughter, Marie Rouensa-8cate8a to marry the French *voyageur* Michel Accault.⁷⁸ Clearly pathos was being employed, though there appears to have been a threat (if possibly an empty one) of other consequences.

Following the death of their husband, a year of mourning was prescribed (the equivalent expectations for a man are not recorded, though it has been mentioned that a widower who married outside of his wife’s family could be punished by the women’s female relatives). During this period, a woman would withdraw from social events and demonstrate their grief through neglecting her appearance and weeping. Failure to gain the pity of her relatives could lead not only her scalp being taken, but for it to be displayed

⁷⁶ Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slaveries in New France*, *op. cit.*, p. 68. The Miami-Illinois term is found in LB 206:31 and PN 211:9.

⁷⁷ Pierre-Charles De Lette, “Memoir of De Gannes [De Lette] Concerning the Illinois Country,” *art. cit.*, p. 334.

⁷⁸ JR, vol. 64, pp. 204-205.

in the manner of one taken in war: “Les parens du deffunt luy léveroient la Chevelure comme a une ennemie, la mettroient dans un Cercle et la pendroient au bout d’un baston au haut de leur Cabanne [the relatives of the deceased would take her scalp as if she were one of their enemies, would put it into a hoop and hang it at the end of a pole at the top of their cabin],” the same being done to unfaithful wives.⁷⁹

From the Miami-Illinois–and–French dictionaries one can identify some fourteen entries concerning adultery, all but two to be found in the Largillier manuscript. These are listed in Table 5.2.

Table 5.2. Entries relating to *adultere* [adultery]

Nº	Miami-Illinois manuscript	French or Latin gloss	English translation	Source
1	Kimitchi8a	femme grosse d'adultere ou fille grosse de fornicaōn	woman who is pregnant from adultery or girl who is pregnant from fornication	LG, 204:32
2	mac8emac8e8a	saepius moechatur	she/he commits adultery more often	LG, 234:36:2
3	Nimac8emac8e	saepius moechatur	she/he commits adultery more often	LG, 234:36:1
4	Anapemari merakihata	femme adultere	adulterous woman	LG, 277:1:1
5	Matakih8e8a anapemari, a8i8asi	hōe ou f adultere	adulterous man or woman	LG, 277:1:2
6	Mattakihe8a anapemari	Elle a deshonoré son mary par un adultere	She dishonored her husband by her adultery	LG, 257:34
7	Mattakie8a achimari	il a deshonoré son frere en abusant de sa femme	he dishonored his brother by abusing his wife (my translation)	LG, 257:35
8	Mattakihi8e8a	homme ou femme qui commet un adultere	man or woman who commits adultery	LG, 257:36
9	Mattakit8ca a8ihia8i	idem. [homme ou femme qui commet un adultere]	<i>Same</i> [man or woman who commits adultery]	LG, 257:37:1
10	Mattakihe8a a8i8ari	infidele a sa femme	unfaithful to his wife	LG, 257:37:2

⁷⁹ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, pp. 334–335.

11	p8ni Mattama8a8a	Elle cesse d estre adultere, et par la son mary cesse d'estre prevenu.	She stops being an adulterer, and with that her husband stops being prejudiced/accused	LG, 258:18
12	Metakihi8eta	homme ou femme adultere v. mat.	adulterous woman or man. <i>see mat.</i>	LG, 277:2
13	metakit8ca a8ihia8i	homme ou femme adultere v. mat.	adulterous woman or man. <i>see mat.</i>	LG, 277:2
14	8ikintamaki8ni	adultere en mariage, de mariage	adultery in marriage, of marriage	LG, 390:19
15	8ippentamaki8ni anapemita	[adultere] avec femme	[adultery] with (a) woman	LB, 66:7

This may be an indicator that that Illinois attitudes to adultery were changing, or returning to an older order, after the first quarter of the 18th century. It seems, as well, that women's kinship networks played a key role. While women who were captives, or had been enslaved, could not benefit from this, this was not the case for many Illinois women. One can see the great deal of political capital that appears to have been expended in securing the safety of Michel Aco's wife who had been captured and faced a death by torture, as mentioned above.⁸⁰ One can also see, in the Kaskaskia Manuscripts, an example that suggests that women could actively use these kinship networks, though the evidence is partial. This involves the cases of the wife and daughter of one Pierre Faffard, also called Boisjoly. He had married Margueritte Anskekae (though she is named as Accica Pat8kic8e in the parish register). Their daughter, Marianne was baptized on 3 June 1714, when she was three years-old.⁸¹ Nine years later Margueritte had apparently grown tired of Pierre, as she abandoned him and left the French village, presumably to live with a new

⁸⁰ "Extrait d'une lettre escrite par monsieur de liette capitaine et comendant au fort de chartre au ilinois a monsieur de Lignery capitaine en canada et comendant general du pays sauvage", 15 October 1726, ANOM, COL C_{11A}, vol. 49, f. 467.

⁸¹ "Registres de la Paroisse de Notre-Dame-de-la-Conception des Kaskaskia", 1695–1834, p. 4. It is possible that "Margueritte Anskekae" and "Accica Pat8kic8e" were two different women, as the recording of Indigenous names is problematic in this period.

partner – though there is no record of her motivations. In September 1723, at Pierre Faffard’s request and after hearing the depositions of three witnesses, the council at Fort de Chartres found Margueritte “dument atteinte et condamné du crime d’adultere [duly attainted and convicted of adultery]” and ruled that she could be confined in a place of her husband’s choosing.⁸² In the French practice at the time, this could typically have been a convent, if this could be afforded. The period of captivity was set at two years, during which time the Faffard could bring her home if he chose to (though the manuscript is damaged at this point). The caveat was, however, that it was up to the husband to take Margueritte into custody. There is no evidence that this ever happened, or that she returned to him. Two years later, Pierre began, and then abandoned, criminal proceedings against someone who he accused of abducting his daughter, who would have been fourteen years old.⁸³ The manuscript is in a rather poor state, and so it is not possible to draw anything more definitive than this. One can imagine, however, that Marianne could have eloped with a lover and gone to live with her mother’s relatives. In this light, Pierre’s abandonment of the case could indicate some form of resolution, quite possibly one that reflected Illinois, rather than French, customs.

Fort Pimétoui, 1690s

Mutilations were not the only sanctions that husbands could impose on wives who they accused of adultery. Sometimes women were subjected to treatment “qui s’apparente à un viol collectif perpétré par une trentaine de jeunes gens [which resembled a gang rape

⁸² KM, 23:6:2:1; Margaret Kimball Brown and Lawrie Cena Dean, *The Village of Chartres in colonial Illinois, 1720–1765*, *op. cit.*, pp. 813–814 (K-349).

⁸³ KM, 25:5:3:1; Margaret Kimball Brown and Lawrie Cena Dean, *The Kaskaskia Manuscripts, 1708–1816: A Calendar of Civil Documents in Colonial Illinois*, *op. cit.*, p. 42.

perpetrated by about thirty young men (my translation)].”⁸⁴ Much surrounding this practice is obscure as there are only a few references to it in the source material. It is not possible to ascertain why this was sometimes applied or in what relation it stood to other forms of sanction. The woman’s perspective is lacking from the historical record, as are the personal and social consequences that she would have faced following such treatment. Also lacking is the way in which the men who participated in such practices were considered by the women of their society. There is nothing in the records that indicated this. However, it can be extrapolated from other societies, such as the Cheyennes (discussed below), that this was at very least a fraught relationship. As it stands, the most complete account of this practice comes from De Liette, who wrote:

[...] ils apostent une trentaine de Jeunes gens dans un chemin par ou ils sçavent que leurs femmes doivent passer, quand elles vont au bois, des qu’ils la voyent le mary sort de l’embuscade et dit a sa femme, comme je sçay que tu aime les hommes je t’en fais festin prens en ton soul, ses cris luy sont inutiles, plusieurs la tienne, et l’un apres L’autre en Jouiissent [...]

[Others inflict another punishment; they post some thirty young men on a road by which they know that their wives must pass in going to the woods. As soon as they see her, the husband issues from the ambushade and says to his wife: As I know that you are fond of men, I offer you a feast of them – take your fill. Her cries are futile; several of them hold her, and they enjoy her one after the other.]⁸⁵

There is only one occurrence of this for which the French author was a witness (if indirectly). This took place at Fort Pimétoui in the 1690s, when De Liette was commander. He recounted that the wife of a Chief had an affair with his cook. When De Liette, in a difficult situation, forced the cook to open the door to his house,

[...] il ouvrit enfin la porte et la femme sortit qui avoit dans ses mains un morçeau de papier dans lequel il y avoit du Vermillon son mary luy

⁸⁴ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d’en Haut, 1660–1715*, *op. cit.*, p. 634.

⁸⁵ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 336.

prit et l'enmena dans un des bastions de nôtre fort, ou il y avoit Vingt Jeunes gens qui ne la menagerent pas.

[He finally opened the door, and the woman came out holding in her hands a bit of paper containing some vermillion. Her husband laid hold of her and led her off to one of the bastions of our fort, where there were twenty young men who did not spare her.]⁸⁶

While the cook was not harmed, out of respect for his commander, Deliette continued “d’autres qui sont plus braves donnent des coups de couteau ou de fleches au galand, dont quelque fois il meure, quand ce ne sont que des Blessures les parens ne dissent rien, mais s’il en meure les freres du defunt, ou ses plus proches ce vangent sur celuy qui a fait le coup [Others, who are braver, inflict wounds on the lover with knives or arrows, of which he sometimes dies. When he is merely wounded his relatives say nothing; but if he dies his brothers or his near relatives take vengeance on the one who dealt the blow]” in spite of the presents that are given to appease them.⁸⁷ From De Liette’s account, it would seem that male Illinois opinion was split about such cases, as he noted “il y en a quelqu’un qui dissent que les femmes ne valent pas la peine du moindre ressentiment, que quand elles sont Infidelles qu’il faut se contenter de les chaser et en prendre d’autres [There are some who say that the women are not worth the price of the least resentment, and that when they prove faithless one should be content to drive them away and take others].”⁸⁸

⁸⁶ *Ibid.*, p. 336.

⁸⁷ *Ibid.*, pp. 336–337.

⁸⁸ *Ibid.*, p. 336.

French (mis)interpretations

This practice is quite difficult to circumscribe within the Illinois legal order. This is partly because De Liette provides the only reliable account from the period. For example, compare this to Antoine Laumet *dit* de Lamothe Cadillac's 1718 *Relation*:

Ils en un autre infâme pour punir l'adultère. Le mary prend sa femme et la mène au milieu du village; il publie, à haute voix, le crime dont elle est coupable, et il invite en mesme temps toute la jeunesse de luy aider à la punir. Il la renvers au mesme instant pour la connoistre le premier; ensuite tout le reste y passe, si bien qu'ils sont quelquefois deux cents ou trois cents hommes, qui ne sont point faschez de se trouver les bourreaux d'une telle expédition. La pluspart du temps la criminelle en meurt, elle en reschappe souvent aussy.⁸⁹

[They have another infamous way of punishing adultery. The husband takes the wife and leads her to the middle of the village; he announces in a loud voice the crime of which she is guilty, and at the same time all the young men aid him in punishing her. At the same moment he throws her down to be the first to be intimate with her, and then all the others are, sometimes two or three hundred men, who are not sorry to act as executioners in such punishment. Generally the offender dies, but often she recovers.]⁹⁰

It is not clear when the account was penned, but it could well have been written while Cadillac was imprisoned in the Bastille on the charge of having made "improper statements against the government of France and of the colonies."⁹¹ The date at the end of the manuscript, 31 July 1718 was four months after he had been released from the Bastille (where he had been held from 27 September 1717 to 8 February 1718).⁹² It would appear that Cadillac's purpose in writing his *Relation* was partly to for profit (as he had left it

⁸⁹ Antoine De Lamothe Cadillac, "Relation du Sieur de Lamothe Cadillac, capitaine en pied, ayant une compagnie de la Marine en Canada, ci-devant commandant de Missilimakinak et autres postes dans les pays éloignes, où il a été pendant trois années," in Pierre Margry, ed., *Découvertes et établissement des Français dans l'Ouest et dans le Sud de l'Amérique Septentrionale, 1614–1754*, vol. 5, Paris, D. Jouaust, 1883, pp. 123–124.

⁹⁰ W. Vernon Kinitz, *The Indians of the Western Great Lakes: 1615–1760*, Ann Arbor (Mich.), The University of Michigan Press, 1965 (1940), pp. 184–185.

⁹¹ Yves F. Zoltvany, "Laumet, de Lamothe Cadillac, Antoine," *Dictionary of Canadian Biography*, vol. 2, 1982, <http://www.biographi.ca/en/bio/laumet_antoine_2E.html>.

⁹² Pierre Margry, *Découvertes et établissement des Français dans l'Ouest et dans le Sud de l'Amérique Septentrionale, 1614–1754*, *op. cit.*, p. 679; Yves F. Zoltvany, "Laumet, de Lamothe Cadillac, Antoine," *art. cit.*

with a publisher, though it was not printed in his lifetime) and partly self-promotion, given the accusations that had been levelled against him. He was at pains to note that “Cependant les François ont tant fait par leurs reproches, que maintenant ils n’exercent que fort rarement ce dernier chastiment [This said, the French have reproached them so much about this practice that now they only use this punishment very rarely. (my translation)].”⁹³ There is a certain irony in this last assertion, for Cadillac had earlier stated that the French had adopted the Indigenous custom of ritually torturing enemy captives, something that he claimed had diminished attacks.⁹⁴ This account appears to be designed for a European audience, only loosely drawn on a reality that Cadillac would have heard of during his time in the *Pays d’en Haut*. The idea of the punishment occurring in the centre of the village goes against De Liette’s assertion that this would happen outside the settlement: “ils apostent une trentaine de Jeunes gens dans un chemin par ou ils scavent que leurs femmes doivent passer [on a road by which they know that their wives must pass in going to the woods].”⁹⁵ What Cadillac was describing was more akin to the European approach to punishment:

La justice du roi, aux XVII^e et XVIII^e siècles, ne repose pas en effet sur l’idée de réconciliation ou de dédommagement : elle supplicie avec cruauté les coupables sur la place publique tant pour les rendre infâmes que pour manifester avec éclat la puissance de la souveraineté.⁹⁶

⁹³ Antoine De Lamothe Cadillac, “Relation du Sieur de Lamothe Cadillac, capitaine en pied, ayant une compagnie de la Marine en Canada, ci-devant commandant de Missilimakinak et autres postes dans les pays éloignes, où il a été pendant trois années,” *art. cit.*, p. 124.

⁹⁴ “Cet usage de supplicier ainsi estoit autrefois en horreur aux François, mais [...] les François sont, à la fin, mis sur le pied de les brusler avec toutes sortes de cruauté, tant il est vray qu’avec les loups on apprend à hurler. [This customary torture was, in the past, looked upon with horror by the French but [...] the French did, in the end, begin to burn them with all sorts of cruelties; so it is true that with wolves one learns to howl. (my translation)]” Pierre Margry, *Découvertes et établissement des Français dans l’Ouest et dans le Sud de l’Amérique Septentrionale, 1614–1754*, *op. cit.*, p. 100.

⁹⁵ Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 335.

⁹⁶ Gilles Havard, *Empire et métissages : Indiens et Français dans le Pays d’en Haut, 1660–1715*, *op. cit.*, p. 460; the citation can be found at Michel Foucault, *Surveiller et punir: Naissance de la prison*, Paris, Éditions Gallimard, 2015, p. 60.

[In the 17th and 18th centuries the king's justice did not rest on the idea of reconciliation or compensation: it exercised cruel tortures over the guilty in the public square, both to reduce them to infamy and to show with brilliance the power of the sovereign. (my translation)]

The description of the public rape of an adulterer in the centre of her village would seem to be based on European practices of public torture and execution, rather than Indigenous jurispractices.

Here it is interesting to note that there appear to be neither entries connected to *viol* [rape] in the Miami-Illinois–and–French dictionaries, nor allusions to its use in the punishment of adultery. Also, beyond the two accounts from De Liette and Cadillac, this practice is not mentioned in other sources. These facts taken together make it reasonable to assume that this form of punishment either diminished or ceased in the early 18th century. However, as this is an argument from silence it is not possible to make a conclusive statement on the question.

Jurispractices of the Cheyennes⁹⁷

To better understand this practice, it is useful to consider a similar approach recorded in the legal order of the Cheyennes. In the 17th century they had a similar culture to the Illinois and resided in the *Pays d'en Haut*. At the same time that the Illinois moved southward, the Cheyennes began a westward migration from the Great Lakes region onto the Plains.⁹⁸ During this time, they abandoned agriculture as a mainstay of their

⁹⁷ “Cheyenne” is an exonym, coming from the Sioux word for “foreign speakers”. It refers the Tsitsistas and Suhtai peoples, whose historical linguistic and cultural relationship is similar to the Illinois and Myaamias. I have employed former term here due to its general usage in the historiography. See Caitlin Haynes, *et al.*, *Guide to the Collections of the National Anthropological Archives: Tsitsistas/Suhtai (Cheyenne)*. Washington (D.C.), National Museum of Natural History: Smithsonian Institution, 2022, p. 5.

⁹⁸ John H. Moore, Margot P. Liberty and A. Terry Straus, “Cheyenne,” in Raymond J. DeMallie, ed., *Plains*, Washington, D.C., 2001, p. 864.

subsistence and adopted the “classic horse-buffalo-tipi complex of the high plains.”⁹⁹ While farming was not entirely abandoned, except for short periods, gathering became a more important source of food, as is logical with a nomadic society.¹⁰⁰ It is important to note that both men and women were expected to live to high standards of sexual repression and self-control. This makes the gang rape of women accused of adultery an anomaly. The anthropologist E. Adamson Hoebel described this in *The Cheyennes: Indians of the Great Plain* (1960):

In only one institutionalized practice within the tribe are the floodgates opened to release all the pent-up, subconscious, frustration-bred sexual aggression of the males. This is supposed to take place when a woman is flagrantly adulterous. In the four cases which we were able to record [...] the triggering events were desertion, simple adultery, and refusal to enter into a sororate marriage – all exasperating actions by strong-willed women toward men who claimed a husband’s rights [...] The outraged husband invites all the unmarried members of his military society (excepting his wife’s relatives) to a feast on the prairie. There the woman is raped by each of them in turn.¹⁰¹

This practice was called to “put a woman on the prairie” (and also “any man’s wife”).¹⁰² That this took place outside the settlement corresponds to what De Liette wrote of the Illinois, as does the language of the feast “dit a sa femme, comme je sçay que tu aime les hommes je ten fais festin prens en ton soul [As I know that you are fond of men, I offer you a feast of them – take your fill.]¹⁰³ If the practice of Illinois feasts was parodied here, it is unlikely that the husband would partake, despite what Cadillac asserted, as the provider of a feast was meant to abstain.¹⁰⁴ In their study *The Cheyenne Way: Conflict*

⁹⁹ Rubie Sootkis and Terry Straus, “Cheyenne, Northern,” *Encyclopedia of North American Indians*, 1996, p. 110.

¹⁰⁰ George Bird Grinnell, *The Cheyenne Indians: Their History and Ways of Life*, *op. cit.*, p. 251. Grinnell, *The Cheyenne Indians: Their History and Ways of Life*, p. 251.

¹⁰¹ E. Adamson Hoebel, *The Cheyennes: Indians of the Great Plain*, *op. cit.*, p. 101.

¹⁰² Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*, *op. cit.*, p. 202.

¹⁰³ Pierre-Charles De Liette, “Mémorial de De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 335.

¹⁰⁴ *Ibid.*, p. 314.

and *Case Law in Primitive Jurisprudence* (1941), Llewellyn and Hoebel noted only four cases over the course of a century.¹⁰⁵ Of these, only in the case of Big Laughing Woman was the punishment inflicted in entirety, interventions ceased one after another and prevented the remaining two. The informant Black Wolf provided the following description of the event:

Big Laughing Woman, who died in 1910 a reputed centenarian, deserted her husband as a young girl. He threatened to give her to his soldier society – and did. All the unmarried men of the club who were not related to her had intercourse with her on the prairie. It is said that there were forty or fifty of them. The girl survived, but no man ever married her afterward; she was not molested after that one experience, however. In later years, she became the favorite storyteller of the tribe. High forehead says that in his youth boys sat quietly the whole night through, listening to her tales of the great days of old. Although her experience made her a woman apart, there is little evidence that she was morally looked down upon because of it.¹⁰⁶

Of the other two cases, the women were saved by family, friends and asylum. Max Gluckman has interpreted one event in the light of the fact that the victim, Little Sea Shell, was not married, and so her brother-in-law was contravening the law that such treatment could only be ordered by a husband.¹⁰⁷ While this appears to be the legal justification, it would also be plausible that it was the product of a tension between the military societies and the wider group. This corresponds with De Liette's indication that Illinois society was not united on this point. It was also an "anomaly in terms of Cheyenne ideals":

Men who have participated in a gang rape are not proud of it. The women in the camps taunt them, and they do not defend themselves; they just hang their heads and walk away. Clearly, the deed runs counter to dominant Cheyenne values. We suspect that the right of the husband to do this to his wife is very old and may have some sacred significance.¹⁰⁸

To support the idea that this practice had a supernatural connection, Hoebel mentions a case in 1853 in which a warrior called Long Chin was putting on the sacred Holy Hat to

¹⁰⁵ Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*, *op. cit.*, pp. 345–346.

¹⁰⁶ *Ibid.*, p. 203.

¹⁰⁷ Max Gluckman, *Politics, Law and Ritual in Tribal Society*, *op. cit.*, p. 91.

¹⁰⁸ E. Adamson Hoebel, *The Cheyennes: Indians of the Great Plain*, *op. cit.*, pp. 101–102.

wear into battle and the string broke. In order to counteract the ill fortune this would bring, he “publicly pledged himself to give a woman to be passed on the prairie.”¹⁰⁹ This was apparently in relation to a potential captive. Grinnell does not provide information as to whether this pledge was accomplished, which might be because captives do not appear to have been taken in the subsequent engagement. This potentially sacred aspect would open the possibility, however, that this practice had a deeper history amongst the Illinois than other forms of punishment of adultery. This is, nevertheless, speculation based on very slim evidence. What can be said is that this raises the question of the disparity between a society’s fundamental principles of justice and the practices that are considered to be legal. The difference between the spirit of the law and the legal code.

Role of Soldier Societies

This overview of a practice amongst the Cheyennes is of interest in illuminating some of the elements connected to this practice amongst the Illinois and confirms the exaggeration of Cadillac’s account. The one key element that comes out of this is the role played by military societies:

The Soldier Societies, or military associations, as they have been called. Their membership included all fighting-men. Most significantly, except for one society which was composed of a single band [called the Dog Soldiers], five of the societies drew their membership from the various bands into which the tribe broke up for the winter, as well as from the various clans. Theoretically the Soldier Societies were under the authority of the chief’s council, but they an autonomy in power of their own.¹¹⁰

The Cheyennes had six of these societies in the 19th century, “the Fox Soldiers, Elk Soldiers, Shield Soldiers, Dog men, and Northern Crazy Dogs. These were free

¹⁰⁹ George Bird Grinnell, *The Fighting Cheyennes*, New York, Charles Scribner’s Sons, 1915, p. 88.

¹¹⁰ Max Gluckman, *Politics, Law and Ritual in Tribal Society*, *op. cit.*, pp. 89–90.

associations in which membership was voluntary and at the discretion of the individual” and no doubt the society as well.¹¹¹

The question here is whether the Illinois had similar associations. If so, they would likely have had a role to play in the Illinois legal system. In Chapter 3 it was suggested that the young men who acted as guards during a hunt could have been members of such an organization. Again, one sees similarities between the Cheyennes and Illinois treatment of adultery that might indicate the involvement of such a society. One other piece of evidence might indicate such organizations, concerning groups of warriors who assisted in difficult childbirths:

[...] quand elles ont de la peine a acoucher quarente ou cinquante Jeunes gens viennent fondre sur la Cabane dans le temps qu'elle y songe le moins, en faisant des cris pareilles a ceux qu'ils font quand ils attaquent leurs Ennemis, tirent des coups de fusils et frappent de grands coups sur la Cabane ce qui la fait delivrer, aussi tost [...]

[When they have a painful childbirth, forty or fifty young men make a descent upon the cabin in the most unexpected manner, uttering cries like those they make when they attack their enemies, shooting off guns, and striking heavy blows upon the cabin, which brings about immediate delivery.]¹¹²

This approach would no doubt have proven an efficient aid to the woman, given the adrenalin that such an intervention would produce. Whether this was connected to a Soldier Society, however, is another matter. This is an area in which one cannot go beyond speculation as concerns the late 17th and early 18th centuries. The Cheyennes and Illinois were distinct societies and two centuries separates the sources consulted on both. Similarities in some legal practices do not mean concordance on all points. Indeed, as has been mentioned, one of the difficulties in studying historical Indigenous legal cultures is

¹¹¹ Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*, *op. cit.*, p. 99.

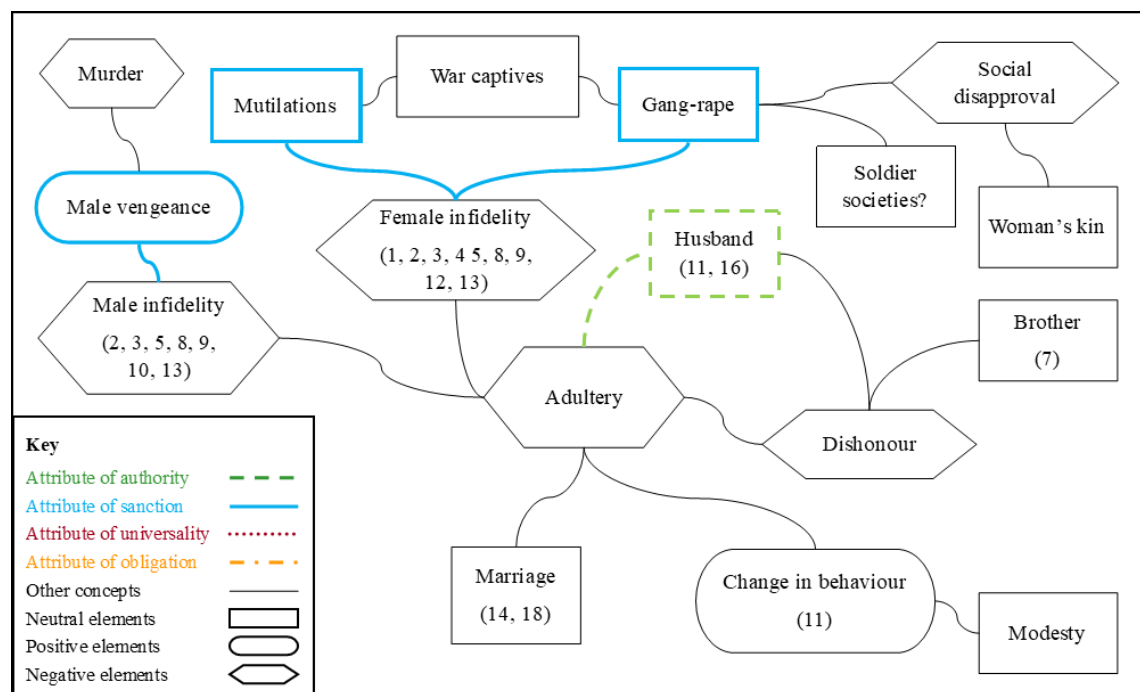
¹¹² Pierre-Charles De Liette, “Memoir of De Gannes [De Liette] Concerning the Illinois Country,” *art. cit.*, p. 354.

the tendency to regard them as uniform. This question must, then, be regarded as an area of silence in the historical record.

Masculine prerogative or law?

There remains the question as to whether the punishments for adultery should be considered as law. The key concepts discussed above, and drawn from the Miami-Illinois– and–French dictionaries, are shown in Model 5.2.

Model 5.2. Conceptual-affective model of the concept “adultery”¹¹³



There is no disputing that these practices were seen as falling under a husband's prerogative, and that adultery was disapproved of. However, this does not clearly include the four attributes of law discussed in Chapter 3. The presence of a sanction is clear, as has been discussed above. However, as the authority to enforce this lay with the husband (and possibly a military society), there is no clear universality of application. This

¹¹³ The numbers in parentheses refer to entries in Table 5.2.

probably lies with the tendency of this to be applied to women who were originally war captives. Similarly, the question of social obligation is not clear, it does not seem that failing to apply such punishments would be seen as requiring a wider intervention, beyond the question of the individual's honour. It can therefore be better understood as an a-legal act of revenge rather than a constituent part of the legal culture, a product of the virile ideal is which is, as the sociologist Pierre Bourdieu notes, a burden insofar as men are constantly called upon to defend their masculinity, their honour, and this in a world where violence in war was an essential male attribute.¹¹⁴

Returning now to the word that was used to open this chapter, <Nam8eta>, for which the gloss is “qui ne prononce pas bien les mots qui ne les prononce qu'à demy soit de faute de langue soit crainte, oubli, ignorance [(one) who does not pronounce the words well, only pronounces them partially, either because of a language mistake or out of fear, forgetfulness, not knowing].”¹¹⁵ This stands as a caution for what is said in this chapter, and indeed throughout this work. The Miami-Illinois–and–French dictionaries, particularly thorough the ILDA, are powerful aids in historical research. This said, relying on the French gloss carries the risk that one only partially understands what is recorded. While the legal questions surrounding homicide, discussed in Chapter 4, are supported by a large amount of primary source materials, the elements discussed in this chapter (i.e., theft, war captives and adultery) have much less clear materials. The picture of Illinois law is fragmentary and marked with silences, due in part to the nature of the sources and the biases to be found in them. The danger which one needs to take into account is that

¹¹⁴ Pierre Bourdieu, *La domination masculine*, Paris, Éditions du Seuil, 2014, pp. 75–76.

¹¹⁵ LG, 316:16.

the dictionaries, as they are colonial sources in their own right, may serve to amplify as such biases, as well as to counter them.

CONCLUSION

The ethnographic study of Indigenous societies in colonial North America has been compared above to looking in a distorting glass. The extant sources have long provided a mirror in which certain objects are shown with relative clarity, yet others are mere shadows. This thesis provides a key, in the use of conceptual-affective modelling, that can help unlock aspects of these past realities that have hitherto been obscure. A key is not, however, the lock, and complex realities lie therein which require greater study to comprehend. Parts of the mechanism will always lie beyond our reach, the sources permitting us only to make educated guesses as to their function. Take Model 4.1, this brings together the Illinois' conception of homicide, clearly connecting the various elements of this complex idea. Some are similar to themes in European culture, the connection between murder and deceit, for example. Others diverge significantly, the concept of the spilling of blood as "pollution," for example, provides a different understanding of the sacrilege of killing. The need to cover the dead brings the victim into focus as actor in the resolution of the murder, even if their agency had to pass through their living relatives (the extent to which the dead were seen as having their own agency in Illinois society is an intriguing question, only touched lightly upon in this work). The potential of war and the cold logic of vengeance is, of course, understandable universally. Such practices can be seen in Early Modern France, yet for the French officers overseeing the Perillault case, vengeance remained a principle that stood outwith the law.¹

¹ See Benoît Garnot, *Histoire de la justice : France, XVI^e–XXI^e siècle*, op. cit., pp. 344–53.

As for Models 5.1 and 5.2, the former brings into focus the hitherto ignored role of the shamans in regulating property disputes in Illinois society, and posits the connection between their authority and social obligations of restitution. This provided a regulatory mechanism that could avoid the cycle of violence and murder that could easily spiral out of control. The latter shows the complex web of concepts that surround the issues of infidelity and male honour. This aspect of Illinois society has been subject to scholarly debate, particularly concerning the question of whether Illinois society can be classed as patriarchal in the late 17th century. What has not been considered, however, is the potential role of soldier societies. While the sources do not provide enough evidence to make assertions, this suggests a deeper layer to the sanctions applied than can be seen from the source material.

One further thing that needs to be underscored is the connection between law and colonization. If custom is an important source of law, Leopold Pospíšil makes an important observation that laws do not need to be internalized, but can be derived from an individual or group wielding power and influence:

Authoritarian law, on the other hand, is not internalized by a majority of the members of a group. A strong minority which supports the legal authority has elevated such a law as an "ideal" and may have simply forced the rest of the people to accept it. In some cases this kind of law is internalized only by legal authority. An authority may even impose the law for reasons beneficial to himself, without believing in its propriety. In other cases the law owes its authoritarian quality to insufficient time for its internalization; opposing members of the group comply with it only under pressure of the authority and the strong minority who already have internalized it. The majority of the population considers the law unjust and feels no guilt in violating it; there is only fear of detection (viz., the U.S. prohibition law of the 1920s).²

² Leopold Pospíšil, *Anthropology of Law: A Comparative Theory*, New York, Harper & Row, 1971, p. 196.

Asides Pospíšil's assumption that a legal authority would be male (not supported by Illinois practices) this is an important point to consider. As mentioned, authoritarian laws can originate from outside a society, either from a colonial power such as the French Empire, or through the adoption of a new religion or political philosophy by a dominant minority. In the period being studied, the importance of the military alliance with Illinois meant that the French colonial administrators were not in a position to impose French laws on their allies, though this was often what they desired. Indeed, in the André Perillault case the Illinois were successful in imposing their legal approach on the French. In the long term, however, it was European conceptions of justice that came to dominate in the *Pays des Illinois*, as the British Empire and then the United States of America took control of the region. Throughout the colonial history of North America, and well beyond this, one can see the use of law as a tool of political domination. Take, for example, the treatment reserved for the Wampanoag leader Metacom, known to the English as King Philip, in 1671, at the same time as the Grand Village of the Kaskaskias was reaching its apogee:

Metacom, having already been compelled to surrender a sizeable cache of guns, but having resisted English demands for complete disarmament, was summoned to Plymouth to explain himself. Facing the governors of the Old Colony, Massachusetts Bay, and Connecticut in a meeting "conducted almost as though it were a criminal trial, with Philip at the bar of justice," he had to sign a treaty acknowledging, "that he and his people were subject both to the royal government and to the colony government, and bound by their laws."³

Here the ritual of an English court can be seen as a demonstration of domination, an exercise that was felt by many of Metacom's English and Irish contemporaries. The other side of this is that colonization erodes law. The mechanisms of Illinois jurisprudences were

³ Daniel K. Richter, *Facing East from Indian Country: A Native History of Early America*, Cambridge (Mass.) and London, Harvard University Press, 2002, p. 102.

dependent on social structures and principles that came under constant pressure as territorial encroachments undermined the Illinois way of life. In 1803 the French aristocrat Constantin-François Chasseboeuf Volney published his account of the Illinois Country, he noted that alcohol led to deadly quarrels, costing (in his estimation) the lives of 10 people by year:

Heureux si, chaque jour, il n'arrivait pas des querelles et des batteries à coups de couteaux ou de casse-têtes qui, année commune, produisent dix meurtres. Le 9 août, 4 heures du soir, à vingt pas de moi, un Sauvage poignarda sa femme de quatre coups de couteau. Quinze jours auparavant, même accident était arrivé, et cinq semblables l'année précédente. De-là des vengeances immédiats ou dissimulées des parens et de la famille, causes renaissantes d'assassinats et de guêt-à-pens.⁴

[It was rare for a day to pass without a deadly quarrel [with knives or war clubs], by which ten men lose their lives every year. A savage once stabbed his wife, in four places, with a knife a few paces from me. A similar event took place a fortnight before, and five such the preceding year. For this, vengeance is immediately taken, or deferred to a future opportunity by relations of the slain, which affords fresh cause for bloodshed and treachery.]⁵

This tragic situation is indicative of a society in which the legal order had been significantly eroded. In such a situation the delicate work required to “cover the dead” and “wipe away tears,” if not forgotten, gave way to cycles of violence.

This study has addressed three questions: firstly, what do the extant historical sources permit us to say about Illinois legal culture in the 18th century? Secondly, how can a study of linguistic sources, particularly Miami-Illinois–and–French dictionaries, add to our knowledge on this? And finally, what are the limitations placed on our understanding by the source material? In order to tackle these questions, the preceding chapters have been organized around five central themes connected to the using bilingual dictionaries as

⁴ Constantin-François Chasseboeuf Volney, *Tableau du climat et du sol des États-Unis d'Amérique*, op. cit., pp. 425–426.

⁵ Constantin-François Chasseboeuf Volney, *A View of the Soil and Climate of the United States of America*, Philadelphia, J. Conrad & co., 1804, p. 354.

historical sources. Bound together in tracing the interconnections between knowledge, language and law in colonial North America, each chapter also had a separate purpose, like the subject headings in a dictionary. Chapter 1 considered the Miami-Illinois–and–French dictionaries as sources, and particularly the ILDA, which makes their use as both linguistic and historical sources much more accessible. Here the French gloss for Miami-Illinois terms were considered. This is the most common way in which these entries are used in this research, and the most accessible. Here they bring into light 18th-century Indigenous conceptions and realities. Of course, it has to be remembered that the gloss is a translation from L₂ into L₁, that can both distort meaning and allows biases to enter. Chapter 2 provided an overview of the history of the Illinois people in the late 17th and early 18th century, a period of significant dislocation that appears to have had an impact on Illinois laws, if not their underlying principles (the broad outline of which can be discerned in this study). Here the history was illustrated by the use of isolated terms from Miami-Illinois. This use of dictionary entries is limited, serving the same function of some of the illustrations included in this work insofar as it provides a degree of linguistic colour without deepening what can be known from other historical sources. It is worth noting here that the story of Illinois law stretches back into the past, though we have no historical sources to study this, and forward to the present, which lies beyond the scope of the present research. Chapter 3 considered the nature of concepts and that of justice. Here an internal analysis of entries helped establish a model of the Illinois conception of justice, which set the scene for an investigation of concrete cases that have been preserved in the historical record. The comparing of similar words and morphemes across three dictionaries opens up a window onto the intellectual conceptions of the Illinois some three hundred years

ago. It is a powerful technique when dealing with abstract concepts, and one that is made possible by the digital database.

The final two chapters considered cases that had been recorded in the French Archives. Chapter 4 took the speeches of Kaskaskian and Cahokian leaders in 1723 as a base, tying these into entries in the Miami-Illinois–and–French dictionaries. Here contextual or explanatory phrases were of particular interest. One of the functions of these dictionaries was as phrasebooks. The contextual information they provide, helped provide a much deeper analysis of the speeches that has been possible before. Coupled with this, the construction of conceptual-affective models based on the dictionaries and other historical sources brought together different attributes of law and the concept of murder as it can be understood in relation to the Illinois in the 18th century. Finally, all the above approaches together in considering areas of Illinois law for which historical records are fragmented, particularly the questions of theft, the treatment of war captives and adultery. Here the dictionaries were able to provide insights into the Illinois conception of these. They were also crucial in identifying exceptions to the legal order. As shown, the approaches to adultery in the late 17th century and early 18th century cannot be considered as law proper, but rather tolerated practices born out of customs of war in the *Pays d'en Haut*. Here, the cultural background of the compilers and their interlocutors was considered, as were the impacts that these had on the dictionaries as historical sources.

Returning to the questions set above, the answers to these are: first, that these sources only permit us to see what the French authors considered important or intriguing. On the question of murder, there is a wealth of information due to the political ramifications these had on the Franco-Illinois alliance. On other questions, such as theft

or adultery, the record is clouded. On these subjects, the prejudices and preoccupations of the French authors provided a skewed view of Illinois approaches to justice. As concerns the second question, the Miami-Illinois–and–French dictionaries provide a new depth to what can be said about the Illinois approach to justice, particularly due to the powerful database compiled by the ILDA. Internal analysis of the entries in these dictionaries allows the establishment of a conceptual framework that can be compared and contrasted with the other historical sources. Furthermore, using conceptual-affective models that couple entries with other source material allows specific concepts to be mapped in relation to their legal and social importance. Third, the limitations come from both the French authors and their Indigenous interlocutors. The former wrote what they thought of as of interest to their audience, and omitted things that did not seem relevant. Added to this is the ethnocentric lens through which they viewed Indigenous societies. Both of these points act to distort what can be said of the Illinois legal order in the late 17th and early 18th century. Coupled with this are the choices of the Illinois as to what aspects of their institutions they were willing to share with their interlocutors. The role of Medecine Men and Women, for example, is hinted at but not clearly explained in the extant sources.

Law is, at root, a set of rules governing human relations. In order to understand the rules that were current in 18th-century Illinois society one needs to turn to the accounts of men like Pierre-Charles de Liette. However, such sources are limited when it comes to considering the relations that underpinned the Illinois legal system. It is in this aspect that the Miami-Illinois–and–French dictionaries allow for a deepening of our knowledge of the Illinois conception of justice in this period. Without drawing on them in depth, it is possible to enumerate a series of rules that applied to their society in the late 17th and early

18th centuries, as was done by Raymond Hauser in his thesis “An Ethnohistory of the Illinois Indian Tribe, 1673–1832” (1973). By engaging with these dictionaries (particularly through the newly developed ILDA) one can move beyond this necessarily restricted vision and bring into play the complex relations between individuals and ideas. This is a crucial development in our ability to understand Indigenous legal culture, particularly where there are insufficient archival sources to establish a coherent picture of a given legal system. The future potential for using Indigenous-language dictionaries in historical research goes far beyond the question of law, of course. It promises to be an area of research that will permit a new appraisal of our understanding of the Indigenous history of North America, though it is one that will also require the historians develop expertise in Indigenous languages.

The techniques developed in this research, particularly conceptual-affective modelling, can easily be adapted to the study of other contexts. While law was chosen as a case study for these techniques, the conceptual-affective model can be adapted to any aspect of intellectual and social life. For example, it could be used to investigate conceptions of the sacred amongst the Illinois in the 17th and 18th centuries (though a new theoretical framework would need to be adopted, such as one from the cognitive science of religion). This would help deepen our knowledge of this transitional period, for which our understanding of the conversion of many Illinois to Catholicism is almost entirely drawn from the *Jesuit Relations*. The Jesuits (as well as others) compiled dictionaries of many Indigenous languages. While these may not be as accessible as the Miami-Illinois–and–French dictionaries studied here, the digitization of such manuscripts, as well as the progress that can be hoped for in the revitalization of Indigenous languages should make such analyses increasingly more practical for historians.

Another example would be the application of the methods of eliciting legal principles from Miami-Illinois texts using the techniques developed by the Accessing Justice and Reconciliation Project.⁶ The recent publication of a collection of Miami-Illinois texts edited by David J. Costa, *As Long as the Earth Endures: Annotated Miami-Illinois Texts* (2022) would make such a study feasible.⁷ This said, the analysis of the legal underpinnings of these stories would require the attention of a scholar with an intimate connection to the culture being investigated, though the techniques developed for this thesis could both provide an historical background and could lend themselves to being adapted to the textual analysis of these resources.

The use of dictionaries provides a quantifiable set of data that can be analysed through the conceptual-affective model (although the number of entries for a term does not necessarily correlate with the importance of the connected concept). However, the technique in no way needs to be restricted to the analysis of dictionaries. One avenue of future research, to provide a concrete example, could be the analysis of the religious concepts found in Pîl Pôl Wôzôkhilain's Abenaki translation of the Gospel of St Mark and the Catechism.⁸ This type of analysis, however, would require a deeper etymological analysis than that undertaken in this research. Here the French and Latin gloss provided by the dictionaries has provided sufficient foundation on which the conceptual-affective models can be constructed. Analysing Indigenous-language texts beyond the dictionaries

⁶ This was a collaborative effort of the University of Victoria's Indigenous Law Research Clinic, the Indigenous Bar Association, and the Truth and Reconciliation Commission of Canada, see Hadley Friedland and Val Napoleon, "Gathering the Threads: Developing a Methodology for Researching and Rebuilding Indigenous Legal Traditions," *art. cit.*, pp. 16–44.

⁷ David J. Costa, ed., *As Long as the Earth Endures: Annotated Miami-Illinois Texts*. University of Nebraska Press, 2022, 642 pp.

⁸ Pîl Pôl Wôzôkhilain, *Kagakimzouiasis ueji uo'banakiak adali kimo'gik aliuitzo'ki za plasua*, City of Québec, Fréchette & Cie, 1832, 44 pp.; *Ibid.*, *St. Mark*, trans. into Abenaki by Pîl Pôl Wôzôkhilain, Montreal, 1844, 58 pp. Note that his name is also spelt Wôzôkhilain or Wôzôkhilain.

with this model would necessitate a more detailed understanding of the language in question.

Finally, a term given by LeBoullenger, «atchim8rsetche», is worth retaining here. It is recorded as “interroge le fait Le raconter qu il raconte [interrogate the fact, the story that he is telling].”⁹ This caution is fitting to include here as the use of Miami-Illinois–and–French dictionaries in historical study has to be treated with care. They are sources that give voice to Indigenous concepts in a way that is not so directly available elsewhere. Yet they remain colonial sources written by French authors with their own distinct ideas and purposes. They retain the potential to distort and exaggerate historical concepts. This study is hampered by the fact that the author’s knowledge of Algonquian grammar is limited, and so the etymological analyses of the Miami-Illinois terms that have been used are all drawn on other works. For such dictionaries – in Miami-Illinois and other Indigenous languages – to be used to their full potential for historical study then historians need to collaborate with linguistic scholars and, ideally, begin studying these languages alongside English, French and Spanish. Concurrently with this, colonial history should become increasingly multidisciplinary, at least as far as Indigenous-settler relations are concerned, with linguists and historians working on the vast variety of topics that Indigenous language dictionaries can open up. For now we see through a glass, darkly. With time, we may be able approach something closer to being face to face.

⁹ LB, 260:21.

Appendix A

Terms with morpheme <kikint8r→ kihkintooli, “notice, discern”¹

Nº	Miami-Illinois manuscript	French or Latin gloss	English translation	Source
1	Kikint8ragane	marque signe d’une chose cachee	mark, sign of a hidden thing	LG, 200:8
2	Kikint8raĩ8nta	figuré, marqué, designé auparavant	figured, marked, designed beforehand	LG, 200:9
3	Nikikint8ra8a	je le designe, le represente, je suis sa figure	I indicate him, (I) represent him, I follow his look, his face	LG, 200:10
4	Nikikint8ri	je me souviens, je reconnais, j’observe, je acquite, j’imite	I remember, I recognize, I observe, I acquit, free, I imitate	LG, 200:11
5	peki Kikint8riro	remarque bien.	Notice well!	LG, 200:12
6	Kikint8ri8ni	coutume	custom	LG, 200:13
7	Ni8anikikint8ri	j’oublie comme la chose est faite, le chemin etc.	I forget how the thing is done, the path etc.	LG, 371:19
8	kikint8ragane	but blanc	bullseye	PN, 85:45
9	ni8anikikint8ri eginag8etchi	je ne remets pas son visage	I do not recognize his/her face	LB, 53:2
10	kikint8ragane	but blanc	bullseye	LB, 114:29
11	kikint8neh8rinta	Lié par le Col	tied at the neck	LB, 138:57:1
12	nikikint8reh8ma	je le	I (tie) him (at the neck)	LB, 138:57:3
13	nikikint8nebat8n nihia8i	Je me	I (tie) myself (around the neck)	LB, 138:58
14	nikikint8n nihia8i	je me découvre me fais connoitre en faisant du bruit	I reveal myself, make myself known by making noise	LB, 164:17

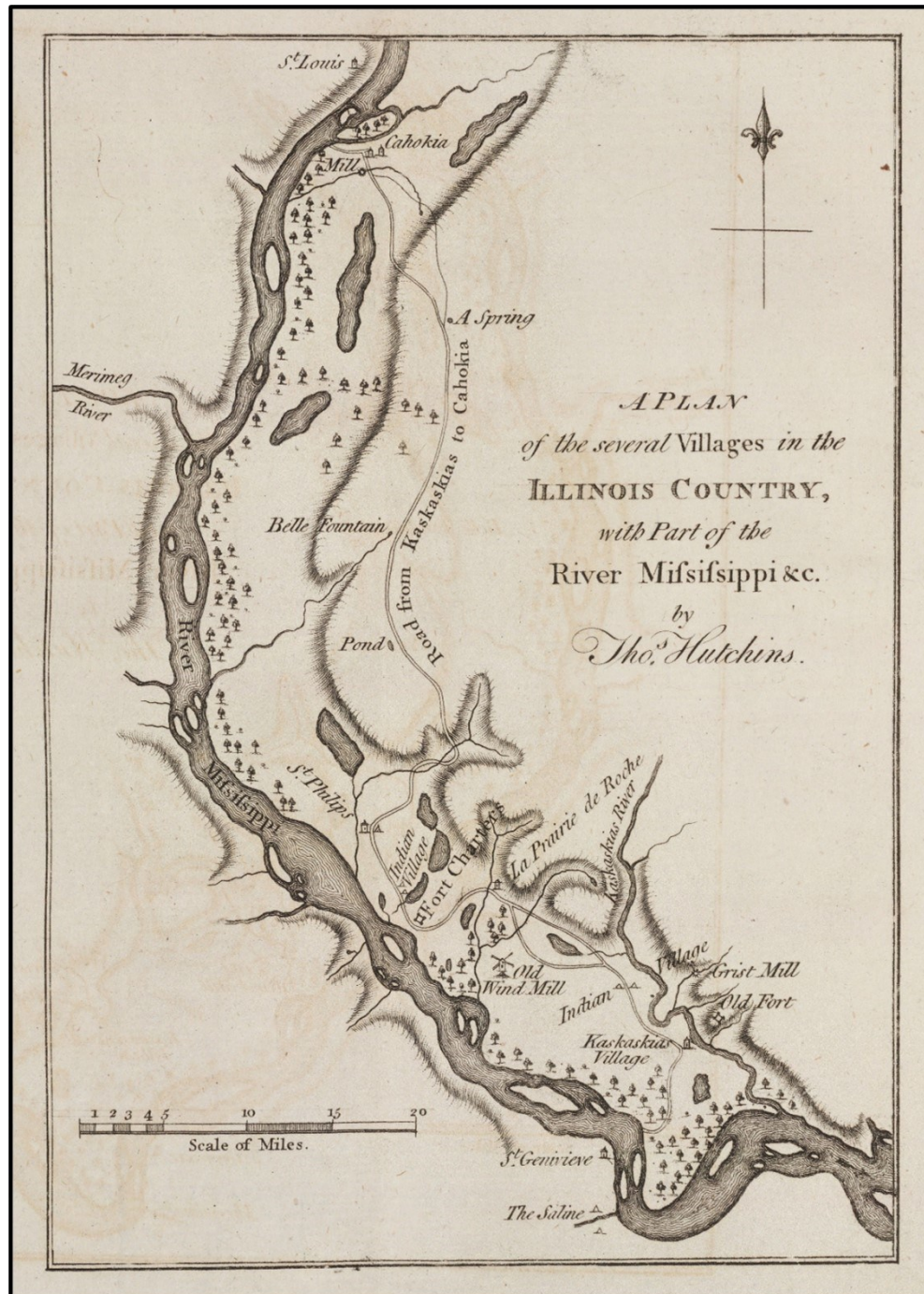
¹ Entries in tables are arranged in the order in which they are found in the Miami-Illinois–and–French dictionaries, and chronologically according to the date of each manuscript: Largillier’s first, Pinet’s second and LeBoullenger’s third.

15	kikint8riro	remarque	Note! Notice!	LB, 180:1
16	ninkikint8ra	Je L Ep.	I spy on him/her, watch him/her, observe him/her	LB, 204:51
17	nikikint8ne8si nikikit8nehat8n nihia8i	je m'etr. me pends	I choke myself, hang myself	LB, 212:8
18	kit8ekikint8ragane	L euchariste	the Eucharist	LB, 212:30
19	kit8e kikint8ragane akigicoma	Le Jour du St. Sacrement	the Day of the Holy Sacrament	LB, 254:53
20	nikikint8ri echit8ki	j imite ce qu il fait	I imitate what he does	LB, 256:7
21	kikint8ragane	marque symbole	mark, symbol	LB, 284:53:1
22	kikint8ri8ni	id.	<i>the same</i> , [i.e. mark, symbol]	LB, 284:53:2
23	nikikint8re nicorai	je marque ma robe	I mark my robe	LB, 284:67:1
24	nikikint8raganake	je m. prefigure	I indicate, announce, herald	LB, 284:67:2
25	nikikint8ra8a	je le marque fais Connoitre	I mark it/him, make it/him known (my translation)	LB, 284:76
26	tane8ntchi araminata kikint8rai8ntchi	quel est le signe la marque du Chretien	What is the sign, the mark of the Christian?	LB, 284:77
27	kikint8ragane	La mire d un fusil	the sight of a gun	LB, 292:33
28	nikikint8re ater8ganami	J observe garde sa parole	I observe, keep what he/she says	LB, 302:80
29	kikint8ragane	observance regle de vie	observance, rule of life	LB, 302:83
30	kikint8ri8ni	parole observance loi	word, speaking; observance; law	LB, 314:56:1
31	kikint8ragane	parole observance loi	word, speaking; observance; law	LB, 314:56:2
32	nikikint8re ater8ganemi K.M.	Je conserve J ai a cœur La p. de D.	I preserve, keep fresh, retain, keep, I have at heart, the word of God	LB, 314:66
33	kikint8ragane	doctrine	doctrine	LB, 340:78:1
34	kikint8ri8ni	doctrine	doctrine	LB, 340:78:2
35	peki kikint8ricane	N oublie pas la p. conserve la bien	Do not forget prayer; Preserve it well! Keep it fresh!	LB, 344:45

36	nikikint8ri	Je reconnois remarque Le Lieu	I recognize, notice the place	LB, 356:63
37	nikikint8ra	Je le re.	I notice it/him (my translation)	LB, 360:42:1
38	kikint8rero	remarque cela	Notice that!	LB, 360:42:2
39	kikint8ragane	Le St. Sacremt	the Holy Sacrament	LB, 360:43
40	kikint8ragane	la marque pour faire connoitre qq. chose cachee	the mark to show something hidden	LB, 382:20
41	nikikint8ri	Je me s. conserve cela	I remember, save that	LB, 388:18:1
42	nikikint8ri8nemi	ce qu Je Cons.	that which I save	LB, 388:18:2

Appendix B

A 1778 plan of Illinois Country¹

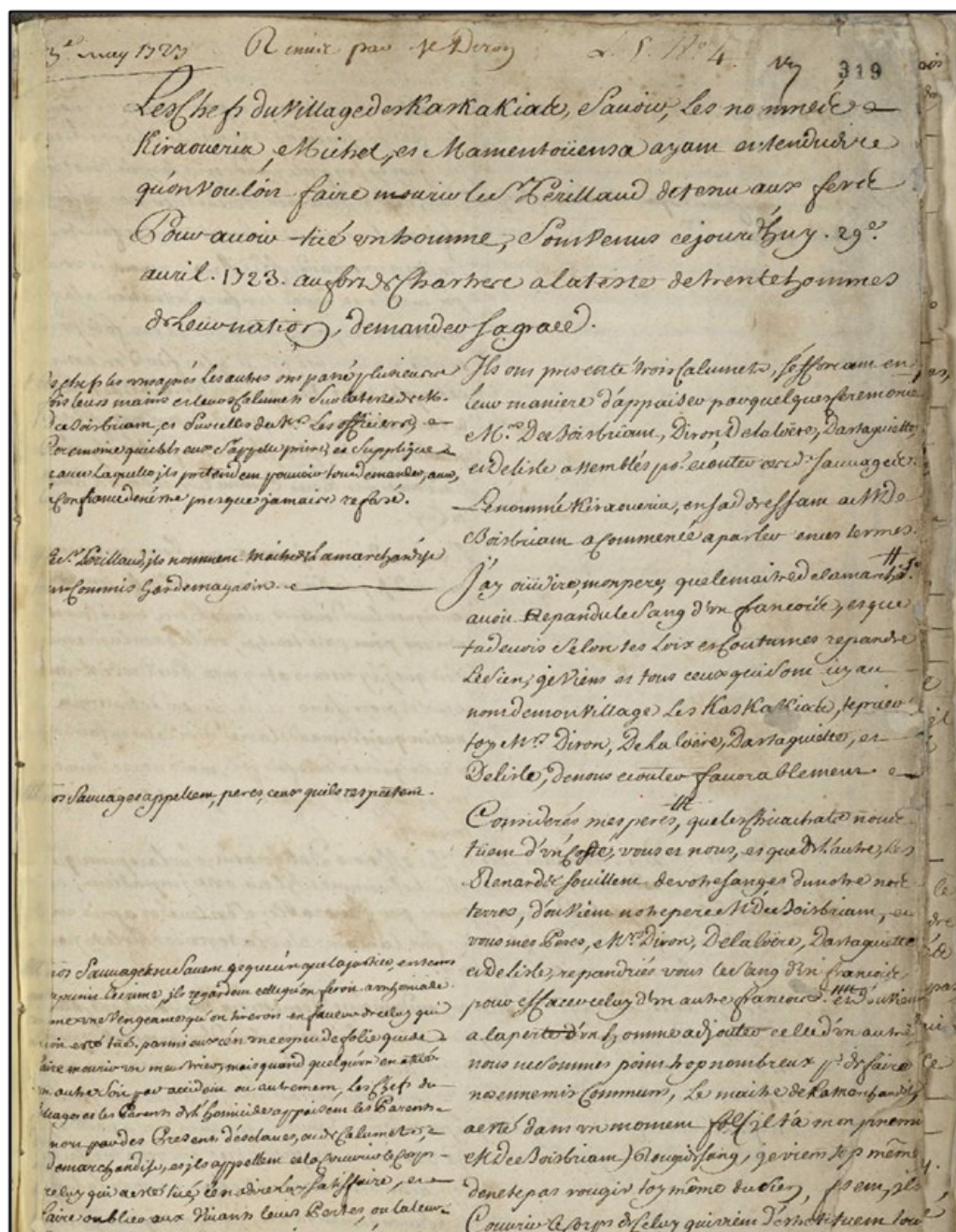


¹ Hutchins, Thomas, *A Topographical Description of Virginia, Pennsylvania, Maryland, and North Carolina*, London, Author, 1778, pp. 40–41 (public domain; source archive.org).

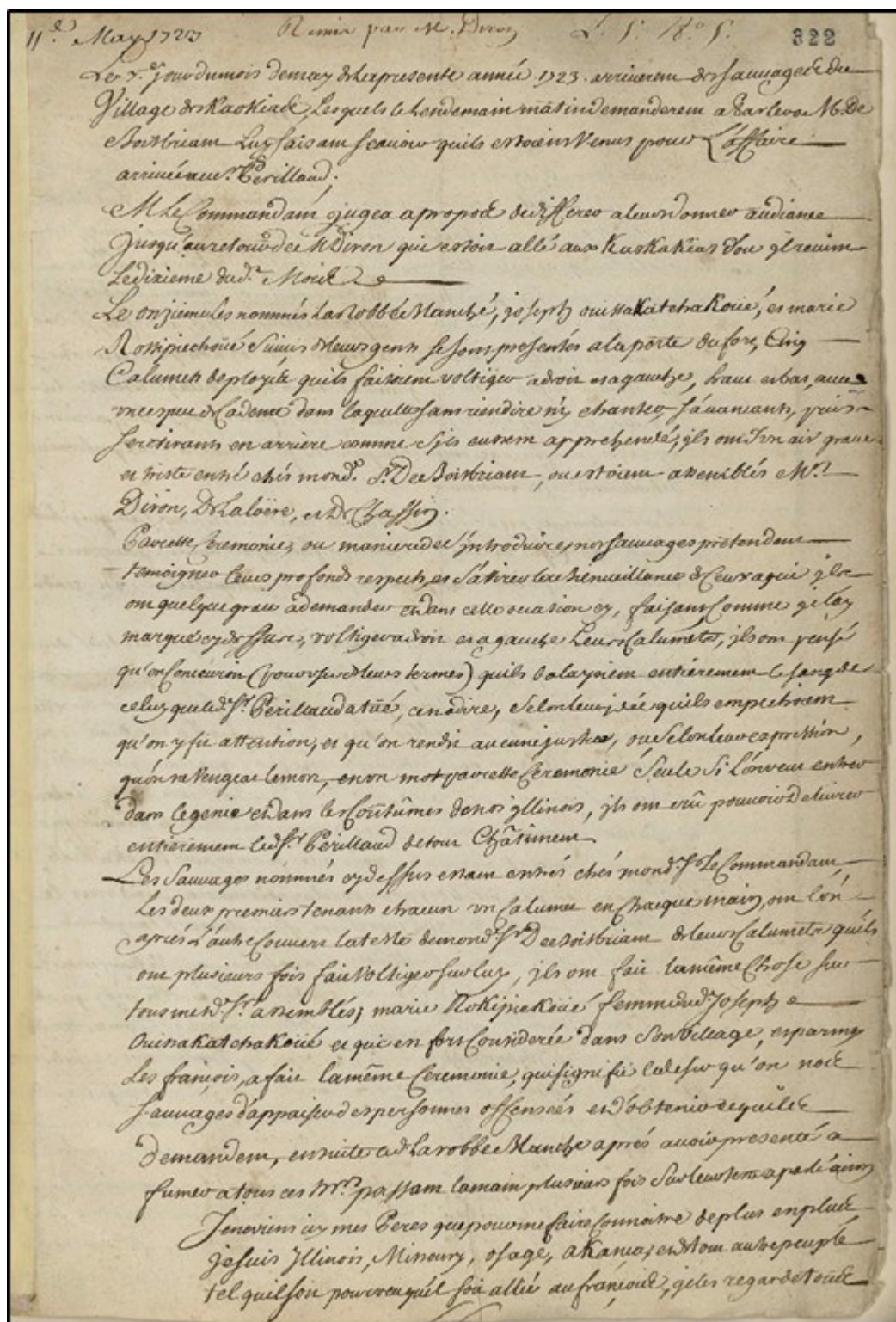
Appendix C

Manuscript of the speeches of the Illinois leaders

Section of the record of the speeches of the Kaskaskian leaders²



² "Les Chefs du Village des Kaskaskias", ANOM, COL C13A, vol. 7, f. 319r (public domain; source <<https://recherche-anom.culture.gouv.fr/ark:/61561/664415.2269347/daogrp/1/275>>).

Section of the record of the speeches of the Cahokian leaders³

³ “Le 7e jour du mois de may de la présente année 1723 arriverent des Sauvages du Village des Kaokias”, ANOM, COL C_{13A}, vol. 7, f. 322r (public domain; source <<https://recherche-anom.culture.gouv.fr/ark:/61561/664415.2269347/daogrp/1/281>>).

Appendix D

Speeches of the Kaskaskian and Cahokian delegations

Present below are the records of the speeches of two Illinois delegations to Fort de Chartres in 1723, one from Kaskaskia and the other Cahokia. These remarkable documents are found in *Archives nationales d'outre-mer*. They have never been fully transcribed and only that of the Kaskaskian delegations has been (partially) translated into English, hence their inclusion here. The transcriptions below are drawn from series C_{13A} (Correspondance générale, Louisiane), volume 7, folios 319 to 323. There is another copy of the Kaskaskian delegation's speeches, with minor differences, in series C_{11A} (Correspondance générale, Canada), volume 45, folios 174 to 176, which has been referred to when elements are missing or unclear. The speeches of the Cahokian delegation can also be seen, in another hand, in series F₃, volume 24, (Collection Moreau de Saint-Méry), folios 141 to 144.

The original included marginal notes, which have been given as footnotes. The English translation for the Kaskaskian delegation has been adapted from Joseph H. Schlarman's *From Quebec to New Orleans* (1929).¹ This translation is incomplete, with certain parts having been cut. Due to this, I have added my own translation where necessary, while retaining Schlarman's as a base (the language and spelling have also been modernised where necessary). In translation, an effort has been made to follow original French as closely as possible. The transcription has also been undertaken as part of the *Nouvelle-France numérique* project.² In the version below, I have followed modern capitalization conventions, except where capitals have been used for emphasis. Folio numbers are provided.

¹ Joseph H. Schlarman, *From Quebec to New Orleans: The Story of the French in America*, op. cit., pp. 225–231.

² For an overview of this project see Maxime Gohier, “Nouvelle-France numérique: Collaboration and partnership arising from AI,” *Read Coops*. n.d., accessed 5 January 2022, <<https://readcoop.eu/success-stories/nouvelle-france-numerique-collaboration-and-partnership-arising-from-ai/>>.

Kaskaskian delegation

3^e may 1723. Remis par S[ieu]r Diron

Les Chefs du village des Kaskakias, savoir, les nommés Kiraoueria, Michel, et Mamentoüensa ayant entendu dire qu'on vouloit faire mourir le S[ieu]r Perillaud detenu aux fers pour avoir tüé un homme, sont venus cejourd'huy, 29^e avril 1723, au fort Chartres a la teste de trente hommes de leur nation, demander sa grace.

Ils ont presenté trois Calumets, s'efforcant en leur maniere d'appaiser par quelque ceremonie ¹ M[essieu]rs De Boisbriant, Diron, Delaloëre, Dartaguiette, et Delisle assemblés p[ou]r ecouter ces d[its] Sauvages. Le nommé Kiraoueria en s'adressant a M[onsieur] De Boisbriant a commencé a parler en ces termes.

J'ay ouï dire, mon père, que le maitre de la marchandise³ avoit repandu le sang d'un françois, et que tu devois selon tes lois et coutumes repandre le sien, je viens et tous ceux qui sont icy au nom de mon village, les Kaskakias, te prier, toy, M[onsieur] Diron, DeLaLoëre, Dartaguiette, et Delisle de nous ecouter favorablement.

¹ "Ces chefs les uns après les autres ont passé plusieurs fois leurs mains et leurs calumets sur la teste de M[onsieur] De Boisbriant, et sur celles des M[essieu]rs les officiers. Ceremonie qui chez eux s'appelle priere, et supplication, et avec laquelle ils pretendent pouvoir tous demander, avec la confiance de n'estre presque jamais refusé."

² "One after another these Chiefs passed their hands and calumets several times over the head of M. de Boisbriant and over the heads of the other officers. A ceremony which they call prayer and supplication, and by means of which they feel they can ask anything, with the confidence that they will scarcely ever be refused."

³ "Le S[ieu]r Perillaud, ils nomment maitre de la marchandise tous commis Gardemagasin."

⁴ "M. Perillaud, they call all the ware-house keepers master of the merchandise."

319^r 3rd May 1723. Submitted by M. Diron

The Chiefs of the villages of the Kaskakias, to wit: Kiraoueria, Michel, and Mamentoüensa, having heard that Sieur Perillaud, who had killed a man and who is in chains, is to be executed, came this day, the 29th of April 1723, at the head of thirty men of their nation to Fort Chartres to ask for his pardon.

They presented three Calumets, endeavouring in their manner to appease by some ceremony ² Messieurs De Boisbriant, Diron, De La Loëre, Dartaguiette and De L'isle, assembled to hear the said savages. Kiraoueria addressed M. de Boisbriant in the following words:

I have heard that the warehouse-keeper⁴ has shed the blood of a Frenchman and that you, according to your laws and customs, must shed his blood. I and all those who are here from the village of the Kaskaskias have come to beg you and M. Diron, De La Loëre, Dartaguiette, and De L'isle to give ear to our petition.

Considerés mes peres,⁵ que les Chicachats nous tüent d'un costé, vous et nous, et que de l'autre, les Renards souillent de votre sang et du notre nos terres, d'ou viens notre pere M[onsieur] De Boisbriant, et vous mes peres M[essieu]rs Diron, Delaloëre, Dartaguiette, et Delisle, repandriés vous le sang d'un françois pour effacer celuy d'un autre françois,⁶ et d'ou vient a la perte d'un homme ajouter celle d'un autre, nous ne sommes point trop nombreux pour defaire nos ennemis communs, le maitre de la marchandise a esté dans un moment fol (il t'a mon père M[onsieur] De Boisbriant) rougi du sang, je viens te prier de ne te pas rougir toy même du sien, faut-il couvrir le corps de celuy qui vient d'estre tüé, allons frapper, allons, mes Peres, M[essieu]rs De Boisbriant, Diron, Delaloëre, Dartaguiette, et Delisle, frapper le Renard et le Chicachats, et de ces

etrangers couvrons nos morts,⁹ cachons ton sang repandu sur cette terre, et pour l'amour de nous n'en fait pas couler d'autre, Je suis de la priere,¹⁰ c'est pourquoy je sais que le grand esprit, l'esprit createur, Dieu, nous deffend mon Père

319v Consider, my fathers,⁷ that the Chicachats kill you and us on the one hand, and on the other, the Foxes stain our soil with your blood and with ours. Would you, my father, M. de Boisbriant, and you my fathers, Messieurs Diron, De La Loëre, Dartaguiette, and De L'isle, spill the blood of a Frenchman to blot out the blood of another?⁸ And add to the loss of one man another? We are not too numerous as it is to fight our common enemy. The ware-house keeper was mad for a moment. He bespattered you (my father M. de Boisbriant), with blood; I now come to beg you not to redden yourself with his blood. If it be necessary to cover the body of him who was killed, then, my fathers, M. De Boisbriant, De La Loëre, Dartaguiette and De L'isle, let us strike the Fox and Chicachas and with those

319v strangers let us cover our dead. Let us conceal your blood that was shed on this earth, but for love of us, do not spill any more. I am of the Prayer,¹² that is how I know that the Great Spirit, the Spirit Creator, God, forbids us, my father,

⁵ "Nos sauvages appellant peres ceux qu'ils respectent."

⁶ "Nos sauvages ne savent ce que c'est que la justice, en sens que de punir le crime, ils regardent celle qu'on fesoit a un homicide comme une vengeance qu'on tireroit en faveur de celuy qui avoit esté tüé. Parmi eux c'est une espece de folie que de faire mourir un meurtier, mais quand quelqu'un a tüé un autre soit par accident ou autrement, les chefs du Village et les parents de l'homicide appaisent les parents du mort par des presents d'esclaves, ou des calumets, ou de marchandise, et ils appellent cela couvrir le corps de celuy qui a esté tüé, c'est à dire luy satisfaire, et faire oublier aux vivants leurs pertes ou la leur cacher, en sorte que les vivants interessés acceptants de ce sorte ces presents se tiennent contents, et ne pensent plus a se venger."

⁷ "Our savages address as father all those whom they respect."

⁸ "Our savages cannot understand justice in the sense that it punishes crime. They consider justice done to a murderer as a vengeance in favor of the one who was murdered. To them it appears folly to take the life of a murderer. With them, when someone has killed another, by accident or otherwise, the Chiefs of the village and the parents of the murderer appease and calm the parents of the victim with presents of slaves or calumets or merchandise, and the call this *Covering the Body* of the one who was killed, that is, to satisfy the victim, to make the living forget their loss or to hide it from them in such a way that, by receiving these kinds of presents, they may feel satisfied and think no more of revenge."

⁹ The end of the seven last lines on ANOM, COL C_{13A}, vol. 7, f. 319r are missing, so COL C_{11A}, vol. 45, f. 174r has been used to complete the text here.

¹⁰ "Je suis Chretien."

¹² "I am a Christian."

de tuer nos enfants celuy que tu as mis aux fers a tûé, il a fait tous d'un coup une grande folie,¹¹ mais ne pouvés vous pas, mes Peres, ne pas tant faire d'attention a sa folie, ne pouvés vous pas l'oublier, il y a des fols par tout, aucune nation ne se peut glorifier d'en estre exempte, mais dieu qui est le maitre de tout ne detournet-il pas les yeux de dessus nos folies quand on le prie, il cesse d'estre fâché, il pardonne. Pardonnés mes Peres Comme luy, et pour l'amour de luy.

Ne me rendés pas honteux, mes Peres, je vous en prie, qu'on ne dise pas Kiraoueria, et ses chefs, sont venus temoigner leurs douleurs, a leurs Peres, mais leurs Peres n'en ont point esté touchés, voila pour la premiere fois que j'ay recours a toy mon Père De Boisbriant pour ton propre sang, et c'est au nom de toute ma nation qu je demande la vie d'un de tes enfants, qui n'a esté qu'une seule fois fol, mais nous sommes icy pour effacer sa faute, et pour te la cacher pour toujours.

Tandis que M[onsieu]r De Boisbriant, et M[essieu]rs les officiers deliberoient, sur la reponse que l'on devoit faire au discours, le nommé Michel comme s'il eut esté impatient, et comme s'il eut apprehendé une reponse peu favorable, s'est levé et a pris une de ces calumets,¹⁴ et passant plusieurs fois la main sur la teste et sur les epaules de ces M[essieu]rs leurs a présenté a fumer.

Refuser a nos sauvages de fumer, ou du moins de mettre a sa bouche le calumet qu'il vous present, c'est les mepriser et leurs faire perdre tout d'un coup toute esperance, ors

to kill our children. The one whom you put in chains has killed someone. He committed, all of a sudden, a great folly.¹³ But could you, my fathers, not pay so much attention to his folly; could you not forget it? There are madmen everywhere, and no nation can glory in being free from them. But does not God, who is the Master of all, raise his eyes above our follies when we ask him to be no longer angry? He forgives; pardon as He does, my fathers, and for the love of Him.

Do not embarrass me, my fathers, I beg you. Let it not be said, Kiraoueria and his Chiefs came to express their grief to their fathers, but their fathers were not moved. Behold, it is the first time that I appeal to you, my father De Boisbriant, and I appeal for your own blood and it is in the name of all my nation that I ask you to spare the life of one of your own children, of one who acted in madness only once. We are here to blot out his fault and to hide it from you for ever.

While M. de Boisbriant and the officers deliberated what sort of answer should be given in reply to the discourse, the Chief named Michel, as though impatient and apprehensive of an unsatisfactory reply, rose, took one of the Calumets, passed it several times over the head and shoulders of those officers and presented it to them to smoke.

To refuse to smoke with our savages, or at least to put the Calumet they offer you to your mouth, is to spurn them and in one moment to make them loose all hope. Now, neither

¹¹ "Il a commis un crime, fait tous d'un coup, une grande faute."

¹³ "He committed a crime, acted in one moment, a grave fault."

¹⁴ This reads "un de ces trois calumets" in ANOM, COL C_{11A}, vol. 45, f. 174v.

M[onsieur] De Boisbriant n'y aucun de ces M[essie]rs a cause des suites qui pouroient en arriver n'estoient d'avis de renvoyer ces sauvages tout a fait mecontents, c'est pourquoy tous ont fumé dans le calumet de paix que presentoit le d[it] Michel, qui aussitost a parlé ainsy.

Je vous remercie, mes peres, que vous me faise de plaisir de mettre a votre bouche mon calumet, et de fumer de mon tabac, je ne doute plus que vous ne nous accordiés ce que nous sommes venus vous demander, je suis seur que vous allés nous ecouter avec attention.

Tu es en colere, mon père De Boisbriant, vous avés me peres, Diron, Delaloëre, Dartaguiette, et Delisle, le cœur plein de tristesse, je viens avec mes camarades de guerres, vous appaiser et vous rejoüir, plut-a dieu que nous puissions reussir, je m'en flatte, j'espere que vous m'obeirés aujourd'huy, puisque quand vous me parlés je suis toujours obeissant. Quand nôtre pere M[onsieur] De Bienville, m'a fait dire icy de rougir sa natte la tienne, et la mienne, du sang des Chicachats qui avoient tüé le françois, il m'a parlé seulement de bouche,¹⁵ et cepend[an]t tu le sais mon père De Boisbriant, je luy ay¹⁶ obeï tout aussitost, parce que je veux le croire en tout,¹⁷ et que je ne cherche qu'a luy faire plaisir, et a vous tous mes Peres, je ne crains point de mourir toutes les fois qu'il s'agit de venger le françois.

M. de Boisbriant nor any of the other officers thought it wise, because of the consequences such action might have, to send these savages away altogether dissatisfied and therefore, each smoked in turn the Calumet of peace presented by the said Michel, who immediately spoke thus:

I thank you, my fathers, that you do me the honor to place my camulet in your mouth and to smoke my tobacco. I no longer doubt you will grant us the favor we have come to ask. I am sure you will listen to us with attention.

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You are angry, my father de Boisbriant, and your hearts, my fathers, Diron, La Loëre, Dartaguiette, and de L'isle, are filled with sadness. I came with my comrades of war to appease and cheer you. Would to God we could succeed. I flatter myself and I hope that today you will obey me, for when you speak to me, I always obey. When our father M. de Bienville sent word to me to redden his mat, thine and mine, with the blood of the Chicachas who killed the Frenchman, he spoke to me only by mouth¹⁸ and still, you know, M. de Boisbriant, I obeyed him and thee at once; because I wish to believe him in all things¹⁹ and I seek only to please him and you, my fathers. I never fear to die when there is question of avenging the Frenchman.

¹⁵ "C'est-à-dire sans me faire aucun present, pa rler de la bouche, chés nos sauvages, c'est pour ainsy dire ne point parler, et s'ils font ce qu'on leurs dit de la sorte, ils croyent meriter beaucoup."

¹⁶ ANOM, COL C_{11A}, vol. 45, f. 175r adds "et a toy" here.

¹⁷ "Luy obeir sans interest."

¹⁸ "That is to say without giving me any presents, talking with the mouth. For our savages, this is the same as not talking, and if they do what one asks of them in this manner they believe that they merit a great deal."

¹⁹ "To obey him without ulterior motive."

Mais qu'est-ce que j'entends, j'entends dire mon pere que pour venger un françois tu rougiras ta natte du sang d'un autre; ah je ne le puis souffrir, je viens avec mes guerriers t'empêcher de le faire, et te prier de delier celui que tu tiens aux fers, donne luy la vie accorde moy, et a mes guerriers cette grace en consideration de la perte que j'ay faite de mon sang, lorsque nous avons voulu par le sang des Chicachats couvrir celui des françois qu'ils ont tüé. Rejouissés, mes peres, aujourd'huy, nos cœurs affligés, ne nous renvoyés pas honteux. Si j'avois ou quelqu'un des miens fait quelque folie, il ne seroit pas de valeur que je mourus,²⁰ repandre mon sang, c'est repandre le sang d'un sauvage mais qu'un françois que nous regrettons perisse, c'est de valeur, mes peres, c'est en rejoür nos ennemis qui le sauront, c'est les venger par nous même. Ils diront, voila des gens qui se detruisent, ils sont fols, plust-a dieu qu'ils s'entretuent tous les jours, ils en seront plus foibles et nous plus forts, voila ce qu'ils diront de vous et de nous, pardonne, mon pere De Boisbriant, [...]

pardonnés mes peres, cessés d'estre fachés et nous leurs fermerons la bouche, ne seroit-il pas honteux²¹ qu'il souhaitassent qu'il y eut tous les jours des querelles parmy les français, ils auroient la confiance qu'outre ceux qui se seroient detruits dans leurs querelles particulieres, nôtre pere detruiroit encor[e] ceux qui auroient survecus ne leurs donne pas mon pere cette confiance, ecoute je t'en prie mes

But what do I hear! I understand, my father, that to avenge one Frenchman you would redden your mat with the blood of another. Ah! I cannot bear it I come with my warriors to stop you from doing this, and to pray you to untie the one you have in chains. Give him his life, and accord me and my warriors pardon in consideration for the loss of my blood when we had wanted to cover the Frenchman killed by the Chickasaw by the blood of our enemies. Lighten, my fathers, today our heavy hearts and do not send us away in shame. If I or one of my people have committed some act of madness it would not be of consequence if I were to die. (my translation)] To spill my blood is only to spill the blood of a savage, but that a Frenchman, one whom we regret, should perish, that is sad, my fathers. That would mean to cause joy to our enemies who would know of it, that would mean to avenge him at our own cost. They will say, look at them, they destroy themselves, [they are mad, God willing] (my translation)] would that they killed one another every day, that would make them weaker and us stronger. Do not give them that satisfaction [Pardon my father De Boisbriant, [...]

pardon my fathers, cease to be angry and we shall close their mouth. Would it not be shameful that they wished there were quarrels between the French everyday? They would be reassured that apart from those killed in individual arguments, our father would destroy one or more of those who had survived. Do not, my father, give them this confidence. Listen, I implore you, to my demands, and those

²⁰ This is rendered as "il ne seroit pas d'une grande consequence qu'on nous fit mourir" in ANOM, COL C_{11A}, vol. 45, f. 175r. The expression "c'est de valeur" came into Québécois French from this Algonquian expression. Its modern meaning is that something is unfortunate, though in the 18th century the Illinois used this to indicate something that was difficult. See the end of this appendix (entries 2, 8–13), as well as Gilles Havard, *Histoire des coureurs de bois : Amérique du Nord, 1600–1840*, op. cit., p. 760.

²¹ This reads as "facheux" in ANOM, COL C_{11A}, vol. 45, f. 175v.

demandes, et celles de mes guerriers, delie ce françois ne luy oste point la vie, oste plutost la mienne car je ne suis qu'un sauvage.

M[onsieur] De Boisbriant a demandé a tous M[essieu]rs les officiers assemblés leur sentiment sur cette affaire qui a parû tres delicate, l'on voyoit d'un costé qu'il estoit dangereux de renvoyer ces Sauvages sans leurs rien accorder, et que de l'autre en le leurs accordant, on avoit lieu d'apprehender qu'ils ne s'en prevalussent en pareil cas; l'on a fait reflexion sur l'estat ou l'on seroit par raport au public, si l'on ne donnoit au S[ieu]r Perillaud le tem[p]s et le moyen de rendre ses comptes; toutes ces choses meurement pesées et considerées mon d[it] S[ieu]r De Boisbriant de l'avis de son conseil a fait faire la reponse qui suit.

Ce que vous demandés mes enfants est de la derniere consequence, c'est (pour parler sauvage) de valeur, oüi, il est de valeur de vous accorder d'un homme qui a fait une si grande folie, il a tüé, et apprenés aujourd'huy, mes enfants, que le grand Chef des françois, le roy, vôtre pere, et le nôtre veut qu'on punisse de mort tout homicide, parmi nous, un tel crime ne peut estre impuny, je ne puis n'y aucuns des officiers que sont icy presents, faire vivre ce maitre de la marchandise, il n'y a que le roy, vôtre pere, et le nôtre, qui puisse luy pardonner et touts tant que nous sommes nous esperons de sa bonté qu'il aura egard a la demarche que vous faitte, je luy envoiray vos demandes, ce sera M[onsieur] Diron que vous voyés icy present qui les portera, il vous promet de les appuyer, j'espere que M[onsieur] De Bienville et nos chefs qui sont la bas, que j'informeray de vôtre affection pour le françois, se joindront a nous pour obtenir la grace que vous demandés, je serois fâché que vous fussiés venu pleurer inutilement nous sommes touchés des services

of my warriors. (my translation)] Release this Frenchman and do not take his life, rather take my life, for I am only a savage.

M. de Boisbriant asked the opinion of all the assembled officers about this affair, which seemed a delicate matter. On the one hand, it was dangerous to send these savages away without making some concession, on the other, there was reason to fear that, if they consented, the savages would take advantage of it on another occasion. Having carefully discussed the affair with his council, M. de Boisbriant had the following answer given:

What you ask, my children, is of the greatest consequence, (to express it in savage language) it is a grave matter. Yes, it is a difficult matter to grant you the life of a man who has committed such a great madness. He has killed, and understand, today, my children, that the Grand Chief of the French, the King, your Father and ours, desires that every murderer be punished with death. With us such crime cannot go unpunished. Neither I nor any of my officers who are here can grant life to this warehouse-keeper. Only the King, your Father and ours. can grant him pardon, and all of us place our hope in his goodness and that he will consider the request that you make. I will forward your demands to him and M. Diron, whom you see here, will carry your wishes to the king. He promises you that he will support them and I hope that M. de Bienville and the Chiefs below [i.e., in New Orleans], whom I will inform of your great affection for the Frenchman, will join us in petitioning the favor you ask. I should be sorry if you had come to weep in

que vous avés rendus et voulés rendre aux françois, esperés donc que vous ne serés pas honteux, mais de peur que quelque françois ne fassent icy de pareilles folies, nous jugeons qu'il faut laisser encore aux fers le d[it] maitre de la marchand[ise] il est bon qu'il pleure sa folie, remarqués mes enfants combien nous vous considerons, nous nous appaisons pour l'amour de vous seulement, nous nous souvions peu des discours de nos ennemis, nous serons toujours assés fort, et nombreux.

Si tost que nous aurons des munitions pour les defaire, si jamais donc quelque françois fait une faute pareille a celle que vous venés d'effacer, je vous avertis que je ne craindray point de le faire mourir, aucune nation ne pourra m'en empêcher, vous viendrés vous même inutilement pleurer, je n'auray point d'egard a vos pleurs, ainsy remarqués bien ce que je vous dis, c'est pour la premiere et derniere fois que vous pouvés esperer de sauver la vie a un tel fol, a un hommcide.²²

Quelques moments après Kiraoueria, s'est levé et a dit.

M[onsieur] De Boisbriant, mon pere, nous te remercions de ce que tu as la bonté de nous promettre, tous nos peres qui sont icy nous font un grand plaisir, c'est bien que nous leurs ayons fait pitié, nous contons que celui qui est au fers ne moura pas,²³ mais nous desirerions mon pere le voir, seroit ce un mal, nous n'avons point d'autre dessein que de le regarder, dis aux soldats qui le gardent de ne pas nous empêcher de le voir

vain. We are touched by the services which you have rendered and wished to render to the French. Hope, then, that you will not be embarrassed, but, for fear that other Frenchmen might commit similar crimes [*follies*], we feel that the warehouse-keeper must still remain in chains. It is good that he bewails his folly. Note, my children, how we esteem and appease you, and only out of love for you. We care little about the discourses of our enemies. We shall always be strong enough and sufficiently numerous.

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As soon as we shall have the ammunition, to defeat them. But if ever a Frenchman should commit a crime similar to the one that you have just blotted out, I shall not hesitate to put him to death; no nation could stop me from it... Mark well, this is the first and last time that you can hope to save the life of such madman, of a man who has killed [i.e., committed murder].

After a few moments Kiraoueria rose and spoke thus:

M. de Boisbriant, my father, we thank you for what your goodness has promised us. All our fathers who are here cause us great pleasure. It is well that we have moved their hearts. We wpect that the one who is in chains shall not die, but we should like to see him. What harm could there be? We have no other design than to look at him. Tell the soldiers who guard him not to forbid us to see him.

²² The last phrase is given as "a un homme qui a tüé" in ANOM, COL C_{11A}, vol. 45, f. 176r.

²³ This reads "point" in ANOM, COL C_{11A}, vol. 45, f. 176r.

M[onsieur] De Boisbriant permis aux chefs Sauvages, de voir le S[ieu]r Perillaud, ils revinrent aussitost, et Kiraouria s'estant assis d'un air triste, dit.

Mon pere, M[onsieur] De Boisbriant y auroit il du mal que le Blanc collet²⁴ qui nous sert icy d'interprete avertit ce prisonnier de ce que tu viens de nous promettre cela luy donneroit je pense courage, il espereroit de vivre, et ne se laisseroit pas abbatre, il me fait compassion, il me semble qu'il a pleuré assés sa folie, delie le je t'en prie.

Aussitost le nommé Michel reprit la parole et dit.

Je vois bien, mes Peres de De Boisbriant, Diron, DeLaloere, Dartaguiette, et Delisle, que vous avés le cœur tout en feu de colere, nous avons taché d'eteindre ce feu, d'apaiser vôtre colere, vous nous assurés que le prisonnier ne mourra pas, mais tu ne veux pas mon pere De Boisbriant le delier, tu veux qu'il y ait des tisons²⁶ qui luy brulent les pieds, je viens de le voir, il est digne de pitie, c'est bien que tu me deffende de venir jamais te demander pareille chose, mais pour cette fois cy ecoute moy.

M[onsieur] De Bienville et nous avons autrefois pleuré une Blanc Collet²⁸ tué par les Coroas, nôtre pere fit dire a mon pere Rouensa, aux Kas[ka]kias [...]

M. de Boisbriant gave permission to the Chiefs to see M. Perrillaud. They returned forthwith, and Kiraoueria, having sat down looking sad, spoke:

My father de Boisbriant, would there be any harm if the White Collar,²⁵ who is our interpreter, informed the prisoner of what you have promised us? I think it would give him courage; he would have new hope of life and he would not be so dejected. He makes me feel pity for him.

Immediately Michel spoke again and said:

I see clearly, my fathers, de Boisbriant, Diron, De La Löere, Dartaguiette and de L'isle, that your hearts are burning with anger. We have endeavored to quench this fire, to appease your anger. You have assured is that the prisoner shall not die, but, my father de Boisbriant, you do not wish to release him; it is your desire the firebrands²⁷ be applied to burn his feet. I have just seen him; he is worthy of compassion. You may forbid me ever to come again to ask a similar favor, but this time hear me.

We and Monsieur de Bienville at one time wept over a White Collar²⁹ killed by the Coroas. Our father sent word to my father, Rouensa, to Kaskaskia, [...]

²⁴ "Le prestre, ils appellent les prestres seculiers Blancs collets, et les jesuites Robbes noires."

²⁵ "The priest, they call the secular priests [Seminary priests of Cahokia] 'White Collars,' and the Jesuits 'Black Robes'."

²⁶ "Ils parle d'une longue barre de fes et des anneux dans lesquels sont les pieds du S[ieu]r Perillaud."

²⁷ "They are referring to the long iron bar and rings in which are held Perillaud's feet."

²⁸ "M[onsieur] Foucault prestre du Seminaire de Quebec missionnaire aux A[r]kansas."

²⁹ "Monsieur Foucault Seminary priest of the Arkansas mission."

mon village de le venger, j'ay esté en guerre sur cette folle nation, je l'ay frappée, et a la frapant j'ay vû couler le sang de quelques uns de mes guerriers, mon coeur a esté enflamé de colere, dans la suite M[onsieur] De Bienville m'a fais dire seulement de bouche, tiens toy en repos, sa seul parolle m'a appaisé a esteint tous le feu de mon cœur en colere, il m'a fait dire de frapper sur les Chicachats, je luy ay obeï, j'ay frappé cette nation, mes camarades ont fait comme moy et tu sais que nous en pleurons, qui, en vengeance la mort du françois ont rougi la terre de cette folle nation de leur sang, je brusle de colere mais dis moy mon pere, de m'appaiser, je t'obeïs aussitost, il ne reste pas en mon cœur un seul charbon de feu, aye donc je t'en prie egard a ce que je te demande, delie ce françois, jette loing ces tisons que luy bruslent les pieds, il souffre, il nous fait a tous pitié.

M[onsieur] De Boisbriant ne repondant rien le d[it] Michel a continué et a dit.

Si tu veux pas delier du moins mon Pere ne fais appliquer ces tisons qu'a un seul de ses pieds et ce la tour a tour pour l'amour de nous donne luy ce soulagement.

M[onsieur] De Boisbriant de l'avis de son Conseil a fait repondre qu'il ne vouloit pas le delier presentement, pas même un pied, la faute (a t'il ajouté) que ce françois a faite, mes enfants, en grande, il faut que mes soldats connoissent que je ne veux pas qu'on soit fol, pour l'amour de vous je luy feray changer ses fers, il en aura de moins pesant, et c'est beaucoup que nous vous ayons accordé de faire en sorte qu'il aye la vie, soyés convaincus que d'autre nation que la vôtre n'auroit pas obtenu ce que l'on vous vient d'accorder, vous voyés par la combien je vous aime en vous estime j'ecoute votre parolle parce que vous vous ecoutés la mienne, je ne

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my village, to avenge him. I went to war against that mad nation; I struck them and in striking them I saw the blood of several of my warriors spilt. My heart was aflame with anger. Later M. de Bienville spoke to me only by mouth, "be quiet," and his word appeased me and extinguished the fire of my angry heart. He sent word again to strike the Chicachas; even as I did, and you know that daily we weep over the loss of those, who, while avenging the death of a Frenchman, reddened the soil of that mad nation with their blood. I burn with anger, but tell me father, to quiet myself, and I obey at once, and not a burning ember remains in my heart. Listen, then, to my petition: release this Frenchman; cast far away those iron bars that burn his feet; he suffers; he makes us all pity him.

M. de Boisbriant making no reply, the said Michel continued:

If you cannot release him, my father, at least do not apply the iron bars but to one foot at a time; for our sakes [for love of us] grant him that alleviation.

M. de Boisbriant with the advice of his council made reply that he did not wish to release him at present, not even free one foot. "The fault," he added, "my children, which this Frenchman has committed is great. It is important that my soldiers know that I do not want anyone o act the madman. However, for love of you, I shall have his irons changed. He shall have lighter ones, and it is a great deal that we have agreed to act in a manner that he shall live. Rest assured that no other nation but yours would have obtained what has been granted to you. You see by that how much I esteem and love you. I listen to your words because you listen to

suis point en colere, je suis touché de ce que vous m'avs dit, et consents que vos gents qui ont esté tué pour venger le françois couvrent le Corps de celuy qui vient d'estre tüé.

Boisbriant, Desursins, Legardeur, Delisle, Ste Therese Langloiserie, Dartaguiette.

mine. I am not at all angry; I am touched by what you have said and agree that your people, who have died to avenge the Frenchman, cover the body of the one who has now been killed.”

[Signed] Boisbriant, Desursins, Diron, Legardeur, De Lisle, Ste Therese Langloisere, Dartaguiette

Cahokian delegation³⁰

11^e May 1723. Remis par S[ieu]r Diron

Le 7^e jour du mois de may de la présente année 1723 arriverent des Sauvages du Village des Kaokias, lesquels le lendemain matin demaderent a parler a M[onsieur] De Boisbriant luy faisant scavoir qu'ils estoient venus pour l'affaire arrivée au S[ieu]r Perillaud.

M[onsieur] le Commandant jugea a propos de differer a leurs donner audience jusqu'au Retour de M[onsieur] Diron qui estoit allé aux Kaskakias, d'ou il revient dixieme du dit mois.

Le onzieme les nommés Larobbe Blanche, Ouissakatchakoüe, et Marie Ronipiechoüé, suivis de leurs gens se sont présentés a la porte du fort, cinq calumets déployés qu'ils faisoient voltiger a droit et a gauche, haut et bas avec une espece de cadence dans laquelle sans rien dire ny chanter, s'avancant puis se retirants en arriere comme s'ils eussent apprehendé, ils ont d'un air grave et triste entré chez moi dit S[ieur] De Boisbriant, ou estoient assemblés M[essieu]rs Diron, DeLaLoëre, et DeChassin.

Par cette Ceremonie, ou maniere de s'introduire, nos sauvages pretendent temoigner leurs profonds respects, et s'attirer la Bienveillance de ceux a qui ils ont quelque grace a demander et dans cette occasion cy faisant comme je l'ay marqué cy dessus, voltiger a droit et a gauche leurs calumets,

322r 11th May 1723. Submitted by M. Diron

In this year, 1723, on the 7th day of the month of May came the savages of the Kaokia village. The next morning they asked to talk with M. De Boisbriant in order to appraise him that they had come about the events concerning Sieur Perillaud.

The Commandant thought it best to defer holding an audience with them until the return of M. Diron, who had gone to Kaskaskia, from where he returned on the 10th of the month.

On the 11th Larobbe Blanche, Ouissakatchakoüe, and Marie Ronipiechoüé, followed by their people, came to the gate of the fort to present five pipes, which they moved right and left, up and down with a certain rhythm, yet not speaking or singing. They moved forward and then withdrew back, as if worried. With solemn and sad expressions, they entred into M. De BoisBriant's place, where MM. Diron, DeLaLoëre and De Chassin were assembled.

By this ceremony, or for of introduction, our savages hope to show their deep respect, and elicit goodwill from those who they wish to ask something. On this occasion, as I described above, by moving their pipes left and right, they thought that we would conceive (to use their terms) that they

³⁰ ANOM, COL F3, vol. 24, f. 141 begins "Traduction des parolles des chefs de deux villages sauvages venus au nombre de 30 aux Illinois pour demander la grace du Sr Perillaud, Louisianne du 17 juin 1722 [Translation of the speeches of the Chiefs of two groups of Illinois savages, at the head of 30, asking for the pardon of M. Perillaud, Louisane, 17th of June 1722]," though the date ought to read 1723.

ils ont pensé qu'on concevrait (pour user de leurs termes) qu'ils balayoient entièrement le sang de celui que le d[it] S[ieu]r Perillaud a tué, c'est à dire selon leur idée, qu'ils empêchoient qu'on y fit attention, et que'on rendit aucune justice, ou selon leur expression qu'on ne vengeât le mort, en un mot par cette cérémonie seule, si l'on veut entrer dans le génie et dans les coutumes de nos Illinois, ils ont cru pouvoir délivrer entièrement le d[it] S[ieu]r Perillaud de tout châtement.

Les sauvages nommée cy dessus, estants entrés chez Mon [dit]. S[ieu]r le Commandant, les deux premiers tenants chacun un calumet en chaque main, ont l'un après l'autre couvert la tête de mon d[it] S[ieu]r De Boisbriant de leurs calumets, qu'ils ont plusieurs fois fait voltiger sur lui, ils ont fait la même chose sur tout mes d[it] S[ieu]rs assemblés; Marie Rokipiekoüé femme du d[it] Joseph Ouissakatchkoüé et qui est fort considérée dans son village, et parmi les français, a fait la même cérémonie, qui signifie le désir qu'on nos sauvages d'apaiser des personnes offensées et d'obtenir ce qu'ils demandent, ensuite le d[it] Larobbe Blanche après avoir présenté à fumer à tous ces M[essieu]rs passant la main plusieurs fois sur leur têtes a parlé ainsi.

Je ne viens icy mes Peres que pour me faire connoître de plus en plus, je suis Illinois, Missouri, Osage, Akania, et de tout autre peuple pourvu qu'il soit allié aux français, je les regarde tous [...]

has wiped away entirely the blood of the one that the aforementioned Perillaud had killed. That is to say, according to their ideas, that they were stopping us from dwelling on this and that we would not pursue any justice, or using their expression, we would not seek vengeance for the death. In one word, by this ceremony alone, if one wants to understand the thoughts and customs of our Illinois, they believed that they could deliver M. Perillaud from all punishment.

Of the savages mentioned above, having entered into M. the Commandant's place, the two first ones held a pipe in each hand and covered the head of M. De Boisbriant with their pipes, which they moved over him several times. This was repeated for all the assembled officers. Marie Rokipiekoüé, the wife of the aforementioned Joseph Ouissakatchkoüé, who is greatly respected in her village and amongst the French, conducted the same ceremony. This signifies the desire of our savages to appease those who are angered and to obtain what they request. Following this, La Robbe Blanche presented the pipe for all the officers to smoke and passed his hand several times over their heads. He then spoke as follows:

I am only here, my fathers, for you to know me better. I am Illinois, Missouri, Osage, Akania, and all other peoples provided that they are allied with the French. I see them all [...]

comme mes parents,³¹ regardés mes Peres, ce bras, cette main, (prenant son pousse) voila l'alliance que j'ay avec ma nation (ensuite prenant son petit doi[g]t) voila de quelle maniere j'estime vos alliés, et les miens, mais sâchés, mes peres, que je n'aime³² mon pousse et mon petit doigt que pour l'amour de vous (prenant son doigt du milieu) voila comme je vous considere le françois luy seul me paroiss grand, luy seul m'est cher, luy seul est mon veritable parent, j'ay taché d'en donner des preuves dès ma jeunesse a la teste de quarante Illinois, allants venger avec l'Onontion³³ de Monreal les françois sur l'Iroquois, toute ma nation depuis m'est temoin combien j'ay le cœur françois, il y a eu, mes Peres parmi nous des fols, autrefois, il leurs auroit esté facile de détuire icy les enfans du Roy nôtre pere, et le vôtre, qui estoit en petit nombre, quand plusieurs de mon village les ont voulu tuer, et piller, j'ay toujours risqué ma vie³⁴ pour le françois, et j'ay scu, par mon esprit, et mon courage, empêcher qu'on ne fit du mal à ceux qui seroient actuellement s'ils vivoient.³⁵

Non seulement, mes Peres, mon Village, mais encor[e] le Sioux sait que je suis françois, j'ay (ce qui m'a coûté beaucoup) fait la paix avec luy, pour faire plaisir aux

322v as my relatives.³⁶ Look, my fatheres, this arm, this hand, (taking his thumb) this is the alliance I have with my nation. (Then taking his little finger) this is the manner in which I esteem your allies, and mine. But know, my fathers, that I only love³⁷ my thumb and my little finger out of love for you. (Taking his middle finger) this is how I consider the French, who alone appears large, who alone is dear to me, who alone is my true relative. I strove to prove this from my youth when, at the head of forty Illinois, I went with the Onontio³⁸ of Montreal and the French to wreak vengeance on the Iroquois. Since then all my nation can bear witness that I have a French heart. There have been, my fathers, at other times madmen amongst us. It would have been easy here for them to destroy the children of the King our father, and yours, who were so few. When several members of my village wanted to kill and rob them, I always risked my life for the French and was able, due to my wit and courage, to prevent harm coming to those who would be [in very good health] if they were still alive.³⁹

My fathers, it is not only my village, but also the Sioux, who know that I am French. I have made peace with them (which

³¹ "En etendant son bras et montrant sa main."

³² "C'est a dire que je n'aime ma nation et nos alliés que pour l'amour de vous."

³³ "Le Gouverneur, M. le Marquis d'Enonville."

³⁴ The following is added "à ceux qui seroient actuellement tres en santé si ils vivoient" in ANOM, COL F₃, vol. 24, f. 142.

³⁵ In ANOM, COL F₃, vol. 24, f. 142 "et mon Bien" is added.

³⁶ "Stretching out his arm and displaying his hand."

³⁷ "That is to say I only love my nation and our allies out of love for you."

³⁸ "The Governor, the Marquis de Denonville."

³⁹ Here something seems to have been lost in translation. The implication is that La Robbe Blanche is referring to the earliest French contacts with the Illinois, and that he prevented untimely deaths of Frenchmen who, by 1723, had died of natural causes (such as Michel Accault). The addition of "in very good health" is drawn from ANOM, COL F₃, vol. 24, f. 142.

françois, cette paix n'a pas duré parce que le Siou[x] s'est rendu ton ennemy.

M. de Tonty Bras de fer a scû lorsque J'ay en sa compagnie tüé deux Iroquois, et une Iroquoise avec qu'elle ardeur je voulois servir le roy nôtre pere, je ne veux parler icy de tout ce que j'ay fait pour faire plaisir aux Blancs Collets nos Peres,⁴⁰ et aux robbes noires les Peres des Kaskakias et des Peorias,⁴¹ vous le savés peut estre deja et je croy que vous connoissés assés mon cœur, c'est pourquoy, mes Peres De Boisbriant, Diron, DeLaLoëre, et Chassin, je vous demande avec confiance que vous deliés ce françois que j'ay appris en avoir tüé un autre, vous avés promis, aux Kaskakias, qu'il ne mourroit pas, que le roy nôtre pere luy pardonneroit, mais vous le tenés toujours aux fers, d'ou vient, mes Peres, faire pleurer si long temps un de vos enfants, si c'etoit un Illinois cela ne seroit pas de valeur, mais c'est toy mon pere De Boisbriant que tu tiens lié, c'est moy que tu fais pleurer, aussitost que j'ay appris la folie du maitre de la marchandise, je n'ay pû m'empêcher de pleurer, je suis venu icy en pleurant, depuis que j'y suis je pleure, me rénvoieras tu pleurer encor, et dira toi que La Robbe Blanch qui a pu venger le françois sur l'Iroquois, le Chiachats et le Cheraquis, et qui sans en estre recompensé a pû empêcher jusqu'a present qu'on ne leur fit du mal, s'en retournera sans pouvoir detourner ses Peres icy pr[esen]t, du mal qu'ils faut souffrir a un françois que tout son village regrette, plût à dieu

cost me much) in order to please the French, a peace that has not lasted only because the Sioux are now your enemies.

Tonty of the Iron Hand knew with what passion I wished to serve the King our father when, in his company, I slew three Iroquois, two men and a woman. I do not want to recount here all that I have done to please our fathers the White Collars⁴² and the Black Robes of the Kaskaskias and Peorias,⁴³ maybe you know this already, and I believe that you know my heart well enough. This is why, my fathers De Boisbriant, Diron, DeLaLoëre, and Chassin, that I am confident to ask you to untie this Frenchman who I have learnt killed another. You have promised to the Kaskaskias that he will not die, that the King our father will pardon him, yet you keep in irons. Why make one of your children weep for so long, my fathers? If it was an Illinois that would not be so difficult, but it is yourself, my father De Boisbriant, that you are keeping bound and it is me that you are making shed tears. As soon as I learnt of the madness of the warehouse-keeper I could not help but weep, I came here weeping, since I am hear I am weeping. Would you send me away still weeping? Would you say that La Robbe Blanche – who has wrought vengeance on the Iroquois, the Chickasaw, and the Cherokee for the French and, without being compensated, has stopped them up to now from harming you – should leave without turning his fathers present here away from the harm they are making a Frenchman suffer, which all my village is saddened by. God willing, my fathers, I can make you feel pity. I come to

⁴⁰ "Ces prestres des seminaires etrangers."

⁴¹ "Les Jesuites."

⁴² "The Seminary priests."

⁴³ "The Jesuits."

mes peres, que je puisse vous faire pitié, je viens couvrir le sang du françois qui a esté tué, et delivrer celuy [...]

que vous tenés aux fers, donnés luy la vie, et delier le je vous prie

Joseph Ouissakatchakoüé, tandis qu'on interpretoit ce que la Robbe Blanche venoit de dire, s'en levé, et s'est mis a genoux, et auparavant qu'on fit aucune reponse a commencé a dire en se relevant.

Qui suis-je moy, je ne suis qu'un enfant qui ne sait pas vivre, je ne m'estime rien, je ne suis qu'un chien, et je ne say comment j'ose parler a mes Peres, ce qui me donne quelque confiance, c'est que le grand esprit (dieu) m'a par compassion accordé la priere, et a toutte ma famille,⁴⁴ est de plus je me souviens avec plaisir, et je serois sur le point de recommencer que dans mon village avec le secours de celuy qui vient de parler. J'ay, p[ou]r appaiser des affaires desavantageuses aux françois, exposé ma vie, j'espere donc que le roy votre pere, et le notre, nous accordera celle du maitre de la marchandise. Qui t'empêche mon pere De Boisbriant, d'essuyer, icy tout d'un coup, nos larmes, n'est-tu pas le maitre tu pleur un françois tué, et bien pour couvrir ce mort, t'empêcher de voir son sang, je viens te jeter mon corps,⁴⁵ il n'en pas de valeur que je meure, en mourant pour un de tes enfants qui a mangé dans ta cuillere,⁴⁶ je l'ay vu, j'espere que l'esprit createur me donnera la vie qui dure toujours, laissés vous fléchir, mes peres, vous savés qu'un

cover the blood of the Frenchman who was killed, and to deliver the one you [...]

323r are keeping in chains. Give him life and untie him, I pray you.

While what La Robbe Blanche had just said was being translated, Joseph Ouissakatchakoüé rose and then fell to his knees. Before we gave any reply, he rose and began to speak:

Who am I? I am but a child who does not know how to live, I am worthless, I am only a dog, and I do not know how I dare to talk to my fathers. What gives me some confidence is that the Great Spirit (God) gave me and my whole family, through His compassion, prayer,⁴⁷ and moreover, I remember with pleasure, and I am on the point of beginning again only in my village with the help of the one who has just spoken. To counter events that were disadvantageous to the French, I have risked my life. I therefore hope that the King our father, and yours, will spare that of the warehouse-keeper. What is preventing you my father De Boisbriant, from wiping away, in one gesture, our tears? Are you the master who is weeping for a dead Frenchman, well in order to cover this death, to stop you seeing his blood, I come to throw my body before you.⁴⁸ It is not difficult that I die, if I die for one of your children who ate from your spoon. I saw him, I hope the Creator Spirit will give me eternal life, allow yourselves to be swayed, my fathers, you know that a father

⁴⁴ "M'a fait la grace d'estre chrestien et a toutte ma famille."

⁴⁵ "Je m'offre de mourir en la place du criminel."

⁴⁶ "Qui a eu l'honneur de manger a ta table."

⁴⁷ "Gave me the grace of being a Christian and my whole family."

⁴⁸ "I offer to die in the place of the criminal."

Pere aime ses enfants, il n'est jamais fâché contre eux longtemps, il oublie leurs folies, et les caresse, oublie celle de celui po[ur] lequel je viens icy pleurer, il est digne de compassion, il ne sera plus fol, je vous le promets, pardonnez-lui donc je vous en prie, tournez plutôt votre colère vers moi, si vous voulez, qui ne suis qu'un chien.

Marie Rokipiekoüé a repris aussi tost la parole en disant.

Mes Peres qui estes mes chefs, écoutez moi, s'il vous plait, je ne suis qu'une femme qui voudrais, que le Roy votre grand chef, mon unique et véritable pere, seût que je tiens tout mon bonheur de lui, il est je pense la cause que j'ay reçu la priere,⁴⁹ qui fait que je vous demande de sauver le maître de la marchandise du feu de ses fers, pour l'amour de dieu notre seigneur Jesus Christ qui par sa mort nous a sauvés du feu.

Après ces discours, M[onsieur] De Boisbriant, et Mes d[its] S[ieu]rs assemblés ayant examiné l'importance qu'il y avoit de contenter ces Sauvages a fait faire la réponse qui suis.

Nous sommes touchés, mes enfants de ce que vous venez de nous dire, mais écoutez bien ce que j'ay déjà dit aux Kaskaskias qui sont déjà venus pleurer pour le même sujet.

Si jamais, mes enfants, quelque françois est détenu aux fers, ne venez pas le délier, vous ne réussirez pas, parmi nous, il faut que le crime soit puni, et puisque, Ô La Robbe Blanche tu es si uni aux françois, et que vous, Ô Joseph, et Marie estes de la priere, apprenés que le roy notre père, et le vôtre veut

loves his children, he is never angry against them for long, he forgets their madness and caresses them. Forget that of the one for whom I come here to weep for. He is worthy of compassion, he will no longer be mad, this I promise you. Pardon him, then, I pray you, turn your anger against me, if you wish, I am but a dog.

Marie Rokipiekoüé began to speak immediately afterwards, as follows

My fathers who are my Chiefs, listen to me please. I am only a woman who wishes that the king, your Great Chief and my sole true father, knows that I owe him all my happiness. It is due to him, I think, that I have received the prayer,⁵⁰ which is why I ask you to spare the warehouse keeper from the fire of his irons, for the love of our Lord Jesus Christ who died to save us from the fire.

After these speeches, M. De Boisbriant and the assembled officers, having considered the importance of satisfying these Savages, made the following reply.

We are touched, my children, by what you have come to tell us, but listen well to what I have already said to the Kaskaskias who already came to weep about the same subject.

If ever again, my children, some Frenchman is held in irons do not come to release him, you will not succeed. Amongst us, it is necessary that crimes be punished. And given, O La Robbe Blanche, you are so united with the French, and that you, O Joseph and Marie, are of the prayer, take note that

⁴⁹ "De ce que j'ay reçue la grace du Christienisme."

⁵⁰ "From which I have received the grace of Christianity."

qu'on fasse mourir celui qui tûe, ainsy soyés bien persuadé que de peur que quelque françois fol n'espere jamais en vos larmes, en vain vous viendrés une autre fois pleurer icy, et me demander grace, je suis reconnoissant des services que vous avés rendus aux françois, je vous en estime beaucoup, c'est pourquoy je ne crains point de vous promettre a vous et aux Kaskakias qu'il ne tiendra pas a nous que le maitre de la marchandise ne perisse point. J'envoieray vos parolles au Roy, et ce sera M[onsieur] Diron que vous voyés icy qui les portera, et qui fera entendre a M[onsieur] De Bienville vôtre pere, et a nos autres chefs qui sont la bas, vos discours, et vos bonnes intentions. J'espere que vous obtiendrés pour cette fois cy seulement ce que vous demandés, ainsy je vous deffends de venir jamais pour pareille cas, il n'est pas en nôtre pouvoir de donner grace a un homicide, notre père, et le [...]

votre le Roy seul peut le faire, nous esperons tous qui sommes assemblés qu'il aura egard a vos demandes, et a celles que nous on fait cy devant les Kaskakias, pour ce qui est de delier presentement celui qui est aux fers, je ne le puis sur le champ, j'en delibereray encore avec tous mes officiers, et je puis vous promettre par avance qu'il ne sera pas long tem[p]s lié.

Les Sauvages ont remercié. Ensuite La Robbe Blanche a estendu a terre deux branches de Porcelaines, s'adresant a M[onsieur] Diron en particulier, et disant.

Je te fais icy, mon Pere, ton chemin, je souhaite qu'il soit toujours beau jusqu'au dela du grand lac,⁵¹ ou est Le Roy

the King, our father and yours, wants that one who kills should die. So be well sure that some mad Frenchman should not put hope in your tears. If another time, you would come here to weep and ask for grace, it would be in vain. I am grateful for the services you have done for the French, I value you highly, which is why I am not afraid to promise to you and to the Kaskaksias that the life of the warehouse-keeper will not depend on us. I will send your speech to the King, and it will be M. Diron who you see here who will carry them and recount to M. De Bienville you father, and to the other Chiefs who are over there, your speeches and good intentions. I hope that you receive, for this time only, that which you request. Hereby I forbid you from coming again for such a case, it is not in our power to give mercy to a murderer, our father, and [...]

323v yours, the King alone can do this. All of us assembled here hope that he will be agreeable to your request, and that of the Kaskaskias. As for untying he who is currently in irons, I cannot do this now. I will deliberate more with all my officers, and I can promise you advance that he will not be bound for long.

The savages thanked him. Then La Robe Blanche spread on the ground to wampum belts, and addressed the following particularly to M. Diron:

I make here, my father, your path. I wish that it will always be good from here to over the great lake,⁵² where the King,

⁵¹ "La mer."

⁵² "The sea."

nôtre père, nous te souhaittons un heureux voyage, et nous te prions de te souvenir de nous quand tu luy parlerai.

M[onsieur] Diron les a remercié et a promis de ne les pas oublier et de porter fidelement leurs parolles cy dessus, et de les presenter au Roy.

[Signé] Boisbriant, Diron, Desursins, Chassin

our father, is. We wish you a happy voyage, and pray that you remember us when you talk to him.

M. Diron thanked them and promised not to forget them and to faithfully carry their above speeches and to present these to the King.

[Signed] Boisbriant, Diron, Desursins, Chassin

Entries related to the term *valeur* [value]

N ^o	<i>Miami-Illinois manuscript</i>	<i>French or Latin gloss</i>	<i>English translation</i>	<i>Source</i>
1	Missat8i	chose de peu de valeur.	thing of little value	LG, 17:298
2	Nimare8atem8i	les larmes ne me viennent pas aisement, elles sont de valeur je veux me battre.	tears do not come easy to me, they are difficult, I want to fight	LG, 252:9
3	Nimissat8mi	mon petit meuble de peu de valeur	my little furniture item of little value	LG, 298:17
4	Nakicatchinagat8i	chose de peu de valeur, caduq. perisable temporelle	thing of little value, obsolete, outmoded, outdated, perishable, temporal	LG, 313:41
5	Papirim8is8kite kitechiteher8t8re	je ne crains pas ce que tu dis, ou crie. ton cry n'est pas de valeur. Metaphor. <i>a Sup voce</i>	I do not fear what you are telling me, or crying out about. your cry is useless. Metaphor. <i>from the word above</i>	LG, 436:32
6	arimat8i repoei8ni	cela est de valeur difficile a app.	that is difficult to learn	LB, 80:43
7	Acat8i	cela est de valeur	that is difficult, that is important	LB, 160:31
8	arimat8i a8ia8i	c est un hōe de valeur difficile	that/this is a difficult man	LB, 176:59
9	arimat8i a8ia8	sa persone est de valeur	his/her person is difficult	LB, 218:34
10	a8atchic8chinghi arimat8i	de porter sur les epaules c est de Valeur	to carry on the shoulders, that is hard	LB, 338:17
11	chipi acatocatta8	faisons le S. Longtems que cela lui soit de valeur	let's make him suffer a long time to the point so that is painful/difficult/of consequence for him	LB, 386:9

Appendix E

Entries relating to *esclave* [slave]

Below are the entries with the term *esclave* in the original gloss. The term *prisonier* was also used for war captives. There are four such entries in the Largillier-Gravier Dictionary and twelve in LeBoullenger. These have not been included here as they are variations on terms already recorded.

N ^o	Miami-Illinois manuscript	French or Latin gloss	English translation	Source
1	Nitaïa	mon animal domestique, mon chien, mon chat... it. mon Esclave.	my domesticated animal, my dog, my cat... <i>also</i> my slave	LG, 17:7
2	Nitataïma	je l'ay pour esclave, pour aāl domestiq. C est mon Esclave...	I have him for a slave, he is my slave, for <i>other</i> domestic servants. He is my slave/This is my slave.	LG, 17:8
3	Nitaïag8a	je suis son esclave, il est mon maistre. vix dī.	I am his slave, he is my master. <i>it is barely said</i>	LG, 17:29
4	Nitaïag8a	il m a mis au jeu dit un esclave. ce mot est rare.	he has put me into the game, says a slave. This word is rare.	LG, 23:6
5	Nitanessacanti a8ihia8i	celuy que j ay fait Esclave, que j ay amené je bats toujours. vide Ninessa	the one that I made a slave, that I have brought, I always beat. <i>see</i> Ninessa	LG, 32:34
6	Nita8embima	c est mon parent, dit le boureau a quiconque amene un Esclave	this is my relative, says the executioner to whoever brings a slave	LG, 40:30
7	Arem8a	chien, beste domestique. et par mepris Esclave.	dog, domestic animal. and with disdain: slave	LG, 59:24
8	Nitarichiha	je luy jette de l eau, lave l'esclave pour luy doner la vie 8g	I throw water to him/her, wash the slave in order to give him/her life e.g.	LG, 61:17
9	Ar8tama8a8a	on a loué son esclave pour	one has hired his/her slave to...	LG, 69:17
10	Nitar8catama8a, nitar8tama8a atintaragana	je renvoye son esclave	I send his/her slave back	LG, 72:8
11	Ar8tama8a8a	on a loué son esclave pour...	one hired his/her slave to (do something)	LG, 72:20
12	Nitataï, nitataïma	vide, Nitaïa littera a. mon esclave mon aāl domestique.	<i>See</i> Nitaïa <i>the letter A</i> . My slave, my domestic animal	LG, 77:18

13	Nitata8im8tara nic8issa	je luy confie mon fils pour $\overline{q\overline{q}}$ temps. un esclave que j ay fait pendant que je retourne a la charge. it je dis a mon fils, a l'esclave de m'attendre la $\overline{q\overline{q}}$ temps. vide supplem.	I entrust my son to him/her for some time. A slave that I made while I am returning to my load. <i>Also</i> I say to my son, to my slave to wait for me there a little while <i>see the supplement</i>	LG, 79:26
14	atintaremi8a a8ihia8i	il est son Esclave.	he is his/her slave	LG, 87:8
15	Nitatintaremi8a, nitatintaraganemina	il est a moy, c est mon Esclave.	he is mine, he is my slave	LG, 87:10
16	Nichachac8ahama8a	je luy tue un esclave, un chien 8g. je luy casse des noix lapide 8g	I kill a slave, a dog for him/her e.g. I crack nuts for him her, e.g. <i>with a stone</i>	LG, 108:6
17	Kiki8nangha nitechina8a	je le regarde cōme un Esclave	I look at him like a slave	LG, 144:37
18	Nitac8iha	je reserve un esclave, un parent que je ne tūe pas	I keep back a slave, a relative that I do not kill	LG, 148:4
19	Niteic8i	j ay esté privé de... je n ay rien; je n ay rien aporté n y beste, n y esclave.	I have been restricted from... I have nothing; I bring back nothing, neither animal nor slave	LG, 151:9
20	Nitentapenara	je le tourmente, traite en Esclave. it. je l ay batu, tué là.	I torment him, treat him like a slave. <i>Also</i> I beat him, killed him there	LG, 152:26
21	Nitintara, tare8a, entarata	je l ay pour esclave	I have him/her for a slave, he/she is my slave	LG, 170:26
22	Nikicapicara8esa	mon cheval, mon esclave est chargé. mon cheval est selé et bridé	my horse, my slave is loaded down. my horse is saddled and bridled	LG, 186:26
23	Kiki8na8a	Esclave	Esclave	LG, 201:13
24	Kiki8nacarig8ta MMri	fait esclave du diable	Made a slave of the devil (my translation)	LG, 201:14
25	Nikikipenara	je marque 8g mon esclave pour le cognoistre	I mark e.g. my slave in order to recognize him	LG, 201:35
26	Ki8inakita	esclave qui chante sa chanson de mort y estant en croyant destiné	slave who sings his death song, being there while believing (himself) destined	LG, 211:29
27	Niki8inakiha	je le fais esclave, le prend en guerre. Luy fait chanter sa chanson de mort.	I make him a slave, take him in war, make him sing his death song	LG, 211:30
28	Niki8inakiha areni	je luy oste son brayet la traite en Esclave.	I take off her breechclout, treat her like a slave	LG, 211:31

29	Nimaïataða	je ramasse pour luy, paye l'esclave, la chevelure	I collect for him, pay for the slave, the scalp lock	LG, 236:32
30	Nimakinahða	je le dīsgue, le tire d'un commun, 8g l'esclave.	I single him out, pick him from an ordinary e.g. the slave	LG, 237:22
31	Nimatarapðra kikiðnaðari	je l'ay fait manger avec un Esclave	I made him eat with a slave	LG, 240:25
32	Nimareðiðeīacðara	je l'injurie, le querelle, le traite de paroles en Esclave.	I insult him, argue with him, treat him with words fit for a slave	LG, 252:28
33	Mattarimðe	vilain chien, vilain Esclave	bad male dog, bad male slave	LG, 259:14
34	Mattarimðcðe	vilaine chienne vilaine esclave	bad female dog, bad female slave	LG, 259:15
35	Nimatchikime, matchikimeða	L esclave a fuy, s'est sauve, en allé secretement.	the slave fled, escaped, left in secret	LG, 261:2
36	Nimatchikiatðmina	n-. n-. en allons avec les Esclaves	we are leaving with the slaves	LG, 261:5
37	Matchiriniða	gueux, Esclave, c est une injure. it. mechant homme	derelict, slave. This is an insult <i>also</i> bad man	LG, 261:30
38	Matchiteheiðsisiða	sans parure, comme un Esclave. at pðrie qui fait peur	without any jewelry, finery, like a slave. <i>but properly</i> (one) who causes fear	LG, 262:14
39	Nimichicaterðeiðma	celuy que je loīe pour bruler l'esclave	the one that I hire to burn the slave	LG, 287:35
40	Ninaītantð makiskiði	je fais bien couler, verse droit dans le vase 8g. doucement, non point en Esclave	I make (it) flow well, pour correctly in the vase e.g. gently, not at all like a slave does	LG, 313:30
41	Ninessacanta	mon Esclave celui que j'ay amene, it. que j'ay tūé raro hoc sensu.	my slave, the one that I brought <i>also</i> (the one) that I killed <i>rare in this sense</i>	LG, 342:4
42	Nitanessacanti aðihiaði	il est mon Esclave	he is my slave	LG, 342:4
43	Ninintapitchikiataða	je mene chez luy les esclaves pris, luy porte les chevelures	I lead the slaves to his house, carry the scalps to him	LG, 349:37
44	ðchitða Kicð. ðchiheða atintaraganari, niarinta aðira	Elle porte qq chose mene une Esclave a son mary. d'une jeune mariée a qui on a doné une Esclave qu'on mene chez le mary	she is carrying something, leads a female slave to her husband. Concerning a young married woman to whom is given a female slave that is led to the house of the husband	LG, 379:26

45	8echihe8a 8echihata atintaaraganari	on luy a donné pour dote un Esclave	people give him a male slave for a dowry	LG, 380:15
46	8eïakic8antisita	brulé de plus en plus en un autre endroit. par les pieds, les jambes, les mains et ensuite ailleurs, un Esclave 8g qu on brule	burned more and more in one other place. On the feet, the legs, the hands and then elsewhere, a male slave e.g. that people are burning	LG, 381:3
47	Ni8e8epapicara	je luy allonge ses attaches soit esclave, soit enfant au berceau que je veux bercer	I extend his ties for him, be it a slave, be it an infant in the cradle that I am going to rock	LG, 383:11
48	Ni8itchir8ntama8a	J'ayde son Esclave 8g. qui-	I help his/her slave e.g. who	LG, 404:25
49	Nipacachima	je lave l'esclave pour luy donner la vie.	I wash the slave in order to give him/her life	LG, 409:17
50	Nipapica8iha	j amene plusieurs Esclaves revenant de guerre	I bring several slaves, coming back from war	LG, 434:29
51	Nipekitara	je ne le traite doucement non point en Esclave	I treat him gently, not at all like a slave	LG, 451:34
52	Pessicantagane	petit baston garny de duvet qu on plante dans une cab. q̄d on amene un Esclave	little stick covered in down that people plant in a lodge when a slave is brought in	LG, 460:35
53	Nipica8iha	j amene plusieurs esclaves venant de guerre. J'emmene plusieurs Camarades.	I bring several slaves coming from war. I lead several comrades	LG, 465:8
54	Pichi8eta	qui amene des Esclaves, qui a fait coups sur l'ennemy	(one) who brings back slaves, who counted coup on the enemy, who struck bows upon the enemy	LG, 465:22
55	Nipitchikiatta8a	je luy aporte des chevelures, des Esclaves que je luy donne	I bring him/her some (scalped) hair, some slaves that I am giving him/her	LG, 479:11
56	Pitchikime8a	un Esclave s'en fuit, il accourt icy, il est arrivé icy ayant esté delivré	a slave flees, he rushes here, he arrived here having been freed	LG, 479:12
57	Nipitchiki8inakiha	j'amene icy de loing un Esclave.	I bring a slave here from far away	LG, 479:14
58	Sacacapiro	demeure dans ta cabanne, dit on, quand on brule un Esclave, montre toy a peine de peur que son ame ne t'emporte, frape les apacois de peur que l'ame	Stay in the lodge! people say when a slave is being burned. Scarcely show yourself for fear that his/her soul will carry you away! Strike the reed mats	LG, 517:32

		de l'esclave qu on brule n y soit attachée, fais la s'enfuir	for fear that the soul of the slave that is being burnt does not become attached, make the flee (my translation)	
59	Sacacapiro passeg8a cata Kimech8minan	Crie frappe sur l apacois (apres la mort de l'esclave), il s en ira. d'autres portent des tisons vers la porte pour le bruler encore a fin d en chasser son ame qui erre dit on dans le village. Superstion.	Cry! Strike the reed mat (after the death of the slave). He will leave. Others are carrying embers toward the door in order to burn him again in order to chase off his soul from it which is wandering, they say, in the village. Superstition. (my translation)	LG, 518:3
60	Sakinapagaïh8rinta	lié par les bras en Esclave, au desus du coude en esclave	tied by the arms like a slave, above the elbow like a slave	LG, 520:28
61	Nisec8aramina	nous nous moquons de l'ennemy en faisant le sasacois. nous nous moquons par des cris de joye de l'esclave que nous brulons	we make fun of the enemy by making the war cry. we mock with cries of joy concerning the slave that we are burning	LG, 524:18
62	Seg8si8a, Seseg8si8a	l'esclave se plaint pleure, crie estant brulé, it. tout autre persone qu on brule.	the slave who complains, cries out while being burned, <i>also</i> any other person that is burned	LG, 525:12
63	S8pikipacaminta	bien battu en Esclave	quite beaten like a slave	LG, 533:14
64	Tchirah8ita kiki8na8ari, kiki8nang8ntchi	il a achepté un Esclave bien cher	he bought a slave for an expensive price	LG, 559:13
65	Tetepacah8a8aki	on leur a donné un baston blanc a porter. aux Esclaves. vide Tetip[...]	slaves were given a white stave to carry. <i>See</i> Tetip[acah8a8a] (my translation)	LG, 572:19
66	Atetipacah8mari	le baton de l'esclave ou sont entortillés des plumes tout autour	the stick of the slave where feathers are twisted all around (it)	LG, 573:17
67	Tetipacah8a8a	on luy a donné un tel baston a porter. scil. a l'esclave	people gave him/her such a stick to carry <i>to wit</i> to the slave	LG, 573:18
68	Nitintaragana	mon Esclave.	my slave	LG, 575:23
69	Nitatintaremima	je l ay pour esclave.	I have him/her for a slave	LG, 575:24
70	Etintaraganihata Kih8nani M.Mri	il nous a rendus Esclaves du demon.	he made us slaves of the demon	LG, 575:25

71	sacacapina	on bat sur les apac. p̄r chasser l ame de l'esclave	people beat on the reed mats in order to chase off the soul of the slave	PN, 33:29
72	nitintaragana	unde... mon esclave	<i>Whence...</i> my slave	PN, 50:23
73	niki8ta8ara kiki8na8a min8tenenghi	je conduis un esclave par le vill.	I lead a slave through the village	PN, 129:23
74	seseg8si8a	l esclave crie quand on le brule	the slave screams when one burns him	PN, 146:9
75	matchitchipe8a sakakapiro [translator's note: the verb here is a command form addressed to 'matchitchipe8a' (the evil ghost)]	les guerriers en criant et frapant sur les cabanes, disent il est mort en miserable (l esclave brûle) laissez en aller son ame a son pays	the warriors crying out and striking the lodges say, he has died in a wretched way (the burned slave), let his soul go to his country	PN, 146:24
76	nikihimig8a kiki8na8a	l'esclave m a echappé	the slave escaped (from) me	PN, 185:19
77	8ippentamaki8ni anapemita	[adultere] avec femme	[adultery] with (a) woman	LB, 66:7
78	ni8inkitama8a a8i8iare	j aime sa femē je comets adul. avec elle	I love his wife, I commit adultery with her	LB, 66:8
79	atentaragana	son Esclave	his/her slave	LB, 92:63:2
80	nitentaragana	mon [Esclave]	my [slave] (my translation)	LB, 92:63:3
81	tetepaca8a8aki	baton des Esclaves	the slaves' stick, staff	LB, 98:68
82	ninenipa8ssi	j ai Les bras liez un esclave	My arms are tied, (says) a slave	LB, 110:37
83	mironiha8o, mironihinta	on le fait br. L Esclave	one burns the slave, people burn the slave, the slave is burnt	LB, 112:53
84	kikiona8o	un Esclave	a slave	LB, 120:36
85	niki8ta8ara kiki8na8o min8tengh	je conduis un Esclave par le village	I lead a slave through the village	LB, 142:51
86	Seseg8si8o	L Esclave crie quand on le brusle	the slave screams when one burns him	LB, 158:3
87	matchitchipe8o sacakapiro	Les guerriers en criant et frappant Sur les cabanes disent il est mort en miserable (L esclave Bruslé Laissez aller son ame en son país)	the warriors crying out and striking the lodges say, he has died in a wretched way (the burned slave, let his soul go to his country)	LB, 158:14
88	nikihimic8o kiki8na8a	L esclave m a Echapé	the slave escaped me	LB, 186:21

89	kiki8na8o	esclave	slave	LB, 206:18
90	kiki8na8i a8i8sssemi ma8i	Le Corps est L esclave	the body is the slave	LB, 206:19
91	nintintaragane	mon Esclave	my slave	LB, 206:20:2
92	atintaraganare	Son Esclave	his/her slave	LB, 206:20:3
93	kiki8nac8e	femme Esclave	woman slave	LB, 206:21:1
94	ninkiki8na8i	Je Suis Esclave	I am a slave	LB, 206:21:2
95	tareg8a matchimanet8are	il es Esclave du Diable	he is a slave of the devil	LB, 206:22
96	ninessacanta	mon Esclave pour brusler	my slave for burning	LB, 206:23
97	nikiki8naganeminan	notre Esclave	our slave	LB, 206:24
98	nitintara	je le fais esclave	I make him a slave	LB, 206:25:1
99	etintaraganinghi a8ia8i	on le fait Esclave	he is made a slave, one makes him a slave	LB, 206:25:2
100	arechi ninchinahe kiki8nga echina8inghi	n importe qu on me regarde en Esclave	little does it matter that I am regarded as a slave	LB, 206:26
101	kiki8nanga nintepinaric8o	il me traite comme un Esclave	he treats me like a slave	LB, 206:27
102	kiki8nacarig8ki M̄M̄ri.	ils sont Esclaves du Demon	they are slaves of the demon	LB, 206:30
103	tchekikic8 kiki8na8iki Epinatonghi	ce qu on fait a ce qui est Esclave	what one does to one who is a slave	LB, 206:31
104	nitentaraganemimec8o	il m a pour esclave	he has me as a slave	LB, 206:32
105	nenipah8rinta	il a Les bras Liez cōe un Esclave	he has his arms tied up like a slave	LB, 272:7
106	ni8ac8sseha	Je p. L esclave	I walk the slave	LB, 346:31
107	kiki8nanga nitirerimic8o	il me r. cōe un Esclave	he looks at me like a slave	LB, 358:65
108	atentara cantipanaki	ils avoient beaucoup de serviteurs ou Esclave[s]	they had many servants or slaves	LB, 380:57
109	arensi8ipa8e8o mare8itara8a cakisc8e	L esclave soufre tout Le Jour	the slave suffers all day long	LB, 386:15

110	nitarinsi8ipa8a8a	Je t. L esclave ¹	I torture the slave	LB, 400:29
111	kiki8nanga nitechina8a	Je le tr. en Esclave ²	I treat him like a slave	LB, 402:31
112	kiki8nanga Epinachiaminghi cata	nous qui devons etre traitez en Esclaves	we who must be treated like slaves	LB, 402:32
113	mamiarica8o nitintaracanta	il ne fait que Voler mon Esclave	he is only stealing my slave, he just steals my slave	LB, 418:85

¹ The keyword for this term is “tourmenter [torment, tease, worry].”

² The keyword for this term is “traitter [trade, treat].”

Appendix F

Entries relating to *vol* [theft]

Nº	Miami-Illinois manuscript	French or Latin gloss	English translation	Source
1	Etchir8canga	jambe ou cuisse brulee. Metaphor. fol, folle. impureté, vol, mensonge	burned leg or thigh. Metaphor. crazy, impurity, theft, lie	LG, 162:37
2	Kigissaca naĩ chirinitchi	vraymant tu as raison il trompe au jeu c est une personne bien rusee. ironice d̄r. item il n'est pas capable de voler ainsy	you are truly correct, he cheats in the game. He is a quite crafty person <i>ironically it is said also</i> he is not capable of stealing so	LG, 196:35
3	Kikipataki8a	il s'enfuit apres avoir volé, pillé	he flees after having stolen, pillaged, ransacked	LG, 201:28
4	Nikimip8i	je mange en secret, je vole pour manger	I eat in secret. I steal in order to eat	LG, 204:30
5	Nikim8te	je vole, derobe	I steal, thief	LG, 204:38:1
6	Nikim8tima	je luy vole, derobe	I steal, thief from him/her	LG, 204:38:3
7	Kim8teski8a	C est un voleur de profession	He is a professional thief	LG, 204:39
8	Mantchitagane	ce que le jong. plante dans son champ pr faire peur empescher qu on ne vole	what the shaman plants in his field to cause fear, to keep people from stealing	LG, 247:28
9	Nimiache8i	je prend pille, vole ce qu'on donne a un autre ppalement quand on chante le calumet. Je prend la boule avec la main au lieu de la crosse	I take, plunder, steal what is given to another, especially when the pipe is being sung. I take the ball with my hand instead of the lacrosse stick.	LG, 282:25:1
10	miacaheĩ8a	je prend pille, vole ce qu'on donne a un autre ppalement quand on chante le calumet. Je prend la boule avec la main au lieu de la crosse	I take, plunder, steal what is given to another, especially when the pipe is being sung. I take the ball with my hand instead of the lacrosse stick.	LG, 282:25:2
11	Kim8tiagane mic8si8a	on luy a donné ce qu on avait derobé	people gave him/her what had been stolen	LG, 290:35
12	Ninaabama	je le voy bien, le distingue de loing le voleur 8g	I see him well, can make him out from a distance, the robber <i>for example</i>	LG, 307:2:1

13	Ninaabantan	je le voy bien, le distingue de loing le voleur 8g	I see him well, can make him out from a distance, the robber <i>for example</i>	LG, 307:2:2
14	Naïchirinita	adroit, fin, rusé, habile a faire, surtout a voler tromper	smart, clever, astute, sharp, discriminating, clever at doing things, especially stealing, tricking	LG, 312:9
15	Nîrintchita	trompeur, habile voleur, ruse fripon, qui fait sa main	trickster, capable thief, sly rascal, (one) who does his hand	LG, 313:23
16	Nin8tchina8e nitepinara	je le frappe ou il l'a déjà est. je le vole pille tout gueux qu'il est	I am striking him where he was already struck. I steal, plunder him, derelict that he is	LG, 352:9
17	Pananaki8a	il tire dehors, estant, fait montre, remue tout pour chercher, voler	I pull out, stretch, show evidence, demonstrate, display, move everything in order to search, steal	LG, 423:35
18	Passag8irintchita	qui a une main pleine de glu ou autre chose semb. Metaph. voleur	(one) who has a hand full of glue or other similar thing. Metaphor, thief	LG, 440:31
19	Nikimip8i	je mange en cachette.	I eat in secret	LG, 484:11
20	Naïrintchita	voleur qui prend adroitement, qui joue des mains.	thief who takes (things) skillfully, who practices sleight of hand	LG, 511:2
21	Nisitenema	je me suis appauvry donant, perdant, estant volé	I impoverished myself giving, losing, getting robbed	LG, 530:35
22	Nikim8ti	je derobe	I steal	PN, 167:29
23	nikim8tima	je luy derobe	I steal from him/her	PN, 167:32
24	kim8timikinte nena8ita8atchi kic8	de peur qu'on ne le der. il luy garde cela	for fear that one might steal it, he keeps that close to him/her	PN, 167:34
25	nimama8imina	nous nous derobons, nous prenons quelq.ch.	we steal from each other, we take something	PN, 167:36
26	tig8emikina	mechant dont volé	a bad person from whom... stolen	PN, 176:6
27	i8na kim8tiki8o areschi i8na airohca	celui la est voleur mais celui ci L est plus	that one is a thief, but this one is more so	LB, 90:63
28	Kîma kim8ti8ni maiakonki8o	D. defend le vol	God forbids stealing	LB, 164:72

29	Nikim8tima	Je lui d.	I steal from him/her	LB, 170:59
30	kakim8tiat	un vrai voleur	a real thief	LB, 170:61
31	nikim8timec8o nimororintans8 pita8inki	on m a volé je n ai point d esperance qu on me le rapporte	I have been robbed. I have no hope at all that it will be returned to me	LB, 172:43
32	aramine nairentchita	grand voleur	great thief	LB, 242:20
33	Nikimip8i	Je vole a manger	I steal to eat	LB, 282:10
34	arinta ap8nam8nta kim8tiagana mamistag8chia	on a rendu une partie du vol au franc.	a part of what was stolen from the Frenchman was returned	LB, 362:19
35	kim8ti8ni nintetira	Je le s. de m avoir volé	I suspect him/her of having stolen from me	LB, 386:47
36	tchitchi naiteheta kim8teta	il a volé subtilemt	he stole subtly	LB, 388:43
37	tepasin8i kim8temitchi	cela n est pas bien qu il m ait volé	that is not good that he stole from me	LB, 418:82
38	kim8tiagane	chose volée	stolen thing	LB, 418:83
39	kakim8tiat	voleur	thief	LB, 418:84
40	mamiarica8o nitintaracanta	il ne fait que Voler mon Esclave	he is only stealing my slave, he just steals my slave	LB, 418:85
41	nitachiteher8tan	J encourage le voleur	I encourage the robber	LB, 418:88
42	nitat8ra8a	Je le tue a la volée	I kill him during the theft	LB, 418:89
43	nikim8ti8ac8e	Je suis Volé	I have been robbed, I am robbed	LB, 418:79
44	kikim8temi	tu m as volé	you stole from me	LB, 418:80
45	kikim8timere	Je t ai volé	I stole from you	LB, 418:81
46	kim8ti8ni	volerie	stealing, theft	LB, 418:83
47	nairintchi8o met8seni8a	on ne fait que voler	people do nothing but steal	LB, 418:84
48	archinikiatt8n	Je vole le voleur	I cheat the robber	LB, 418:87

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