

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

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DATE ENTERED JAN 31 1978

NATIONAL REGISTER OF HISTORIC PLACES
INVENTORY -- NOMINATION FORM

SEE INSTRUCTIONS IN HOW TO COMPLETE NATIONAL REGISTER FORMS
TYPE ALL ENTRIES -- COMPLETE APPLICABLE SECTIONS

1 NAME

HISTORIC
McCaffary, John, House
AND/OR COMMON
John McCaffrey House

2 LOCATION

STREET & NUMBER
5732 13th Court
CITY, TOWN
Kenosha
STATE
Wisconsin
VICINITY OF
CODE
55
COUNTY
Kenosha
CODE
059
CONGRESSIONAL DISTRICT
1st

3 CLASSIFICATION

CATEGORY	OWNERSHIP	STATUS	PRESENT USE
<input type="checkbox"/> DISTRICT	<input type="checkbox"/> PUBLIC	<input checked="" type="checkbox"/> OCCUPIED	<input type="checkbox"/> AGRICULTURE
<input checked="" type="checkbox"/> BUILDING(S)	<input checked="" type="checkbox"/> PRIVATE	<input type="checkbox"/> UNOCCUPIED	<input type="checkbox"/> MUSEUM
<input type="checkbox"/> STRUCTURE	<input type="checkbox"/> BOTH	<input type="checkbox"/> WORK IN PROGRESS	<input type="checkbox"/> COMMERCIAL
<input type="checkbox"/> SITE	PUBLIC ACQUISITION	ACCESSIBLE	<input type="checkbox"/> EDUCATIONAL
<input type="checkbox"/> OBJECT	<input type="checkbox"/> IN PROCESS	<input type="checkbox"/> YES: RESTRICTED	<input checked="" type="checkbox"/> PRIVATE RESIDENCE
	<input type="checkbox"/> BEING CONSIDERED	<input checked="" type="checkbox"/> YES: UNRESTRICTED	<input type="checkbox"/> ENTERTAINMENT
		<input type="checkbox"/> NO	<input type="checkbox"/> RELIGIOUS
			<input type="checkbox"/> GOVERNMENT
			<input type="checkbox"/> INDUSTRIAL
			<input type="checkbox"/> MILITARY
			<input type="checkbox"/> OTHER:

4 OWNER OF PROPERTY

NAME
Michael N. Herbach
STREET & NUMBER
5732 13th Court
CITY, TOWN
Kenosha
STATE
Wisconsin 53140

5 LOCATION OF LEGAL DESCRIPTION

COURTHOUSE,
REGISTRY OF DEEDS, ETC.
Kenosha County Courthouse
STREET & NUMBER
CITY, TOWN
Kenosha
STATE
Wisconsin 53140

6 REPRESENTATION IN EXISTING SURVEYS

TITLE
Wisconsin's Historic Preservation Plan, Volume II: The Inventory
DATE
1975
DEPOSITORY FOR
SURVEY RECORDS
State Historical Society of Wisconsin
CITY, TOWN
Madison
STATE
Wisconsin 53706

7 DESCRIPTION

CONDITION

EXCELLENT
 GOOD
 FAIR

DETERIORATED
 RUINS
 UNEXPOSED

CHECK ONE

UNALTERED
 ALTERED

CHECK ONE

ORIGINAL SITE
 MOVED DATE _____

DESCRIBE THE PRESENT AND ORIGINAL (IF KNOWN) PHYSICAL APPEARANCE

Built in 1842,¹ the John McCaffary House is a simple two-story cream brick structure with a three-window facade, three rooms on each level, a low hipped roof, and flat wooden lintels over windows and door. The cornice is decorated with simple denticulated and sawtooth brick courses. During the 1930s the building was remodeled as a two apartment dwelling. An exterior stairway leads to the upper flat entrance at the left rear. There is no interior staircase.

The owner is currently making improvements in the building, which had been run-down almost to the point of facing condemnation by the city. Among these improvements is a new central heating system. He states that the basic structure has remained unchanged since construction and plans more comprehensive restoration when "time, weather, and money permits."²

¹Herbach to Dean, 1 April 1976

²Ibid.

8 SIGNIFICANCE

PERIOD	AREAS OF SIGNIFICANCE -- CHECK AND JUSTIFY BELOW			
<input type="checkbox"/> PREHISTORIC	<input type="checkbox"/> ARCHEOLOGY-PREHISTORIC	<input type="checkbox"/> COMMUNITY PLANNING	<input type="checkbox"/> LANDSCAPE ARCHITECTURE	<input type="checkbox"/> RELIGION
<input type="checkbox"/> 1400-1499	<input checked="" type="checkbox"/> ARCHEOLOGY-HISTORIC	<input type="checkbox"/> CONSERVATION	<input checked="" type="checkbox"/> LAW	<input type="checkbox"/> SCIENCE
<input type="checkbox"/> 1500-1599	<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> ECONOMICS	<input type="checkbox"/> LITERATURE	<input type="checkbox"/> SCULPTURE
<input type="checkbox"/> 1600-1699	<input type="checkbox"/> ARCHITECTURE	<input type="checkbox"/> EDUCATION	<input type="checkbox"/> MILITARY	<input checked="" type="checkbox"/> SOCIAL/HUMANITARIAN
<input type="checkbox"/> 1700-1799	<input type="checkbox"/> ART	<input type="checkbox"/> ENGINEERING	<input type="checkbox"/> MUSIC	<input type="checkbox"/> THEATER
<input checked="" type="checkbox"/> 1800-1899	<input type="checkbox"/> COMMERCE	<input type="checkbox"/> EXPLORATION/SETTLEMENT	<input type="checkbox"/> PHILOSOPHY	<input type="checkbox"/> TRANSPORTATION
<input type="checkbox"/> 1900-	<input type="checkbox"/> COMMUNICATIONS	<input type="checkbox"/> INDUSTRY	<input type="checkbox"/> POLITICS/GOVERNMENT	<input type="checkbox"/> OTHER (SPECIFY)
		<input type="checkbox"/> INVENTION		

SPECIFIC DATES 1850, 1851, 1853

BUILDER/ARCHITECT

STATEMENT OF SIGNIFICANCE

The John McCaffary¹ house and back yard owe their historical significance to a macabre chain of events culminating in the abolition of capital punishment in Wisconsin in 1853. Popular opposition to the death penalty was already a growing tradition when the territory became a state in 1848. Three years later, when John McCaffary was executed before a crowd of 2000-3000 for the willful murder of his wife Bridget, after receiving the mandatory death penalty, anti-capital punishment sentiment reached floodtide in the state. C. Latham Sholes, who would later spearhead the fight in the State Assembly for abolition of the death penalty, described the execution in his newspaper, the Kenosha Telegraph, commenting, "McCaffry has been murdered according to law. --We do not complain that the law has been enforced. We complain that the law exists."²

On July 23, 1850, McCaffary had drowned his wife in a cistern in back of the house, ending a marriage which, according to their neighbors, was anything but blissful. The sounds of yelling and breaking dishes and furniture reportedly had frequently punctuated the quiet of the neighborhood, then on the outskirts of Kenosha. Although McCaffary admitted his crime on the scaffold, he had steadfastly maintained his innocence both before and throughout his brief trial in May, 1851.³ On May 23, 1851, the jury delivered its verdict, and in August, McCaffary became the first and last man to be executed by the State of Wisconsin.⁴

The property presents potential for historical archeology because the murder involved a well⁵ or cistern supposedly consisting of a partially buried hogshead in the back yard.⁵

¹The name has been spelled variously, McCaffrey, McCaffery, etc. The spelling used in most court records was McCaffary." (Cropley, p. 281).

²Kenosha Telegraph, August 22, 1851.

³Matthew, Milwaukee Journal, August 12, 1951.

⁴There were several executions for murder during Wisconsin's territorial period. (Cropley, p. 281).

⁵Cropley, p. 283.

9 MAJOR BIBLIOGRAPHICAL REFERENCES

Burlington Standard-Press, 14 August 1974, p. 8.
 Crolley, Carrie. "The Case of John McCaffary," Wisconsin Magazine of History, 35(4): 281-288 (Summer, 1952).
 Herbach, Michael N., letter to J. M. Dean, 1 April 1976.
Kenosha News, 29 March 1962; 10 August 1976.
 Matthew, Christopher. "To Hang or Not to Hang," Milwaukee Journal, 12 August 1951.

10 GEOGRAPHICAL DATA

ACREAGE OF NOMINATED PROPERTY 0.1
 UTM REFERENCES

A	1 6	4 3 2 1 8 0	4 7 1 4 5 3 0	B			
	ZONE	EASTING	NORTHING		ZONE	EASTING	NORTHING
C				D			

VERBAL BOUNDARY DESCRIPTION

LIST ALL STATES AND COUNTIES FOR PROPERTIES OVERLAPPING STATE OR COUNTY BOUNDARIES

STATE	CODE	COUNTY	CODE
STATE	CODE	COUNTY	CODE

11 FORM PREPARED BY

NAME/TITLE Marlene Rockmore, Historical Assistant,
David A. Donath, Historical Assistant, Historic Preservation

ORGANIZATION State Historical Society of Wisconsin DATE 29 September 1976

STREET & NUMBER 816 State Street TELEPHONE 608/262-2971

CITY OR TOWN Madison STATE Wisconsin 53706

12 STATE HISTORIC PRESERVATION OFFICER CERTIFICATION

THE EVALUATED SIGNIFICANCE OF THIS PROPERTY WITHIN THE STATE IS:

NATIONAL STATE LOCAL

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service.

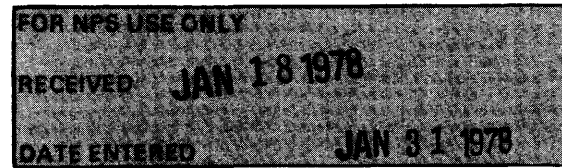
STATE HISTORIC PRESERVATION OFFICER SIGNATURE Richard D. Emery
 TITLE Acting Director DATE 10/29/76
State Historical Society of Wisconsin

FOR NPS USE ONLY	
I HEREBY CERTIFY THAT THIS PROPERTY IS INCLUDED IN THE NATIONAL REGISTER	
<u>W. Donath</u> DIRECTOR, OFFICE OF ARCHITECTURE AND HISTORIC PRESERVATION	DATE <u>1-31-78</u> KEEPER OF THE NATIONAL REGISTER
ATTEST: <u>Charles [Signature]</u>	DATE <u>1-31-78</u>
KEEPER OF THE NATIONAL REGISTER	

UNITED STATES DEPARTMENT OF THE INTERIOR
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McCaffary, John, House
Kenosha, Wis.



CONTINUATION SHEET

ITEM NUMBER 8 PAGE 1

The execution of John McCaffary in August 1851 ignited the final drive for the abolition of capital punishment which resulted in the Wisconsin legislature banning the death penalty in 1853. Christopher Latham Sholes, then a Kenosha newspaperman, had been a leader in the movement long before the murder. When the murder and later the execution occurred in his bailiwick, he was quick to exploit them in hope of inciting public opinion against capital punishment. His newspaper, the Kenosha Telegraph, and like-minded papers throughout the state deplored the penalty in a heated journalistic campaign both before and after the execution. The state capitol's Madison Democrat called the execution "murder before the people with its horrors removed by the respectability of those engaged in its execution." Sholes Telegraph expressed revulsion at the sight of a "judicially murdered man," and complained not of the law's implementations, but of its very existence.⁶ The execution and the editorial campaign surrounding it triggered a public outcry which manifested itself in angry letters to newspapers all over the state as well as pressure on legislators to abolish the death penalty.

McCaffary's public execution took place in a field to the south of Kenosha (near the present intersection of 67th St. and 14th Ave.) in a festive atmosphere amid two to three thousand spectators, and disgusted many Wisconsinites with its barbarity. Large numbers of the state's "Yankee" settlers, with Sholes among them, had come west imbued with reformist sentiments. New York, whence most of them came, had abolished public execution in 1835; by 1844 a formal society favoring the abolition of the death penalty had been organized there. Michigan, of which Wisconsin had been a part, during its territorial period, had abolished capital punishment in 1847, and Rhode Island did the same in 1852.

After the execution of McCaffary, Assemblyman Sholes and Senator Marvin Bovee organized the drive for abolition in the legislature, and the bill, drafted by Bovee, finally passed in 1853, making Wisconsin the third state in the union to outlaw execution.⁷

While it seems somewhat macabre to commemorate the abolition of the death penalty at the site of the state's last murder to result in a death sentence, it seems justified in this case for two reasons. First, the case of John McCaffary contributed measurably to the final drive for abolition, and second, the site of the murder is the only place associated with the event which remains substantially as it was at that time. The present Kenosha courthouse dates later than the trial, the execution of McCaffary took place in a field which later became a brickyard, and the state legislature met in a building no longer in existence. Therefore, the site symbolizes for contemporary Wisconsinites the abolition of capital punishment.

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CONTINUATION SHEET

ITEM NUMBER 8 PAGE 2

6 Copley, p. 286; Kenosha Telegraph, 22 August 1851.

7 History of Wisconsin, v. II, Richard N. Current, The Civil War Era, 1848-1873 (Madison, 1976), p. 191.

McCaffary House, Kenosha, Wis.
01-11-78