



Not "The Thinker," but Kirke Mechem, tennis umpire and sometime author and historian. This recent photograph of Mr. Mechem belies a fairly general belief that the scholar is out of touch with things of the world. Here he is shown calling shots at a tennis tournament in Topeka. He formerly played, and two of his sons gained eminence in Kansas and Missouri Valley play.

The Story of

HOME

on the

RANGE

by

kirke mechem

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“Home on the Range”

KIRKE MECHEM

The night Franklin D. Roosevelt was first elected president a group of reporters sang “Home on the Range” on his doorstep in New York City. He asked them to repeat it, and made the statement, so it was said, that it was his favorite song. Later he often listened to the ballad at the White House, and it was reported that at Warm Springs he frequently led his guests in singing it.

Stories of the President’s approval soon made “Home on the Range” one of the country’s hit songs. By 1934 it had moved to the top on the radio, where it stayed for six months. Everybody sang it, from Lawrence Tibbett to the smallest entertainer. Radio chains, motion picture companies, phonograph record concerns and music publishers had a field day—all free of royalties, for there was no copyright and the author was unknown.

At its peak the song was literally sung around the world. Writing from Bucharest, William L. White, son of William Allen White of Kansas, said:

They all know American songs, which is pleasant if you are tired of wars and little neutral capitals, and are just possibly homesick. And the nicest thing of all is that every one of them knows *Home on the Range* and for the equivalent of one United States quarter in the local money you can get them to play it over and over during the evening while you sprawl back on the soft leather cushions and drink beer and think about Chase County, Kansas, or your lost youth or some of the girls you used to know.¹

Even in the Antarctic, the penguins heard how the deer and the antelope play. When Admiral Richard E. Byrd was asked how he had passed the time during the six months when he was alone at the South Pole, he said:

1. John Lomax, “Half-Million Dollar Song,” *The Southwest Review*, Dallas, Tex., v. 31 (1945), p. 3. Lomax is here quoting from the *Dallas News* of May 24, 1940.

For entertainment I took with me an old style Edison phonograph and a few favorite records. After I had read my instruments and had written up my records for each day during the early months of my stay, I gave myself daily concerts, always playing the song that tells about the land of sunshine where the sky is not cloudy all day. Later, when the cold grew more intense, my phonograph, operated by a spring, froze up and wouldn't go. I couldn't even play my favorite record, so I found myself breaking the loneliness by singing "Home on the Range" against the cold, bleak darkness of the South Pole.²

Such sudden and world-wide success was probably never equalled by another song. Then even more suddenly every radio station in the United States was warned to take "Home on the Range" off the air. A suit for infringement of copyright had been filed in the courts of New York for half a million dollars against 35 individuals and corporations, including the National Broadcasting Company and many large publishing houses. The suit was brought in 1934 in the name of William and Mary Goodwin of Tempe, Ariz. They claimed that Goodwin had written the words of a song entitled "An Arizona Home," and Mrs. Goodwin the melody, and that the copyright had been registered on February 27, 1905. This, they declared, was the parent of "Home on the Range."³

The song at once ceased to be published or recorded or sung by professional singers. The defense of the suit was taken over by the Music Publishers Protective Association. Samuel Moanfeldt, a New York lawyer, was employed to investigate the claimants and to discover if possible the origins of the words and music. This was an assignment that started him on a three-months' tour of nearly every state west of the Mississippi.

At the outset, Moanfeldt discovered that all popular versions of the song could be traced to 1910 and the researches of one man. This was John Lomax, whose experiences as a collector of folk music are as fascinating as the songs he gathered.

Lomax grew up in Texas near the old Chisholm trail and as a boy wrote down many of the cowboy songs. He attended the University of Texas, where an English professor once told him the songs were worthless. "Just another example of the crudity of America," the professor said. But later, at Harvard, their value was recognized and Lomax was given a three-year traveling fellowship. This confirmed him in his career. For 40 years he combed America for its native music: Through the cypress swamps of the South, in the Kentucky mountains, among sailors on the Great Lakes, in penitentiaries, saloons and lonely bunkhouses. The result is now in the Library of Congress: 10,000 of Lomax's own phonograph records and another 10,000 which his example inspired, all available to the public at cost.

The first by-product of Lomax's work was a book printed in 1910, called *Cowboy Songs*. This, as Moanfeldt learned, was the publication

2. *Ibid.*, p. 2.

3. *Ibid.*, p. 3.

which may have saved "Home on the Range" from oblivion. Lomax's account of how he recorded it was among his favorite stories. Writing in *The Southwest Review*, he said:

On a summer day in 1908 I walked into the Buckhorn Saloon in San Antonio lugging a heavy Edison recording machine. It was the earliest, crudest type of a dictaphone, requiring for its operation earphones and a large five-foot horn. The amazed German proprietor stared at my strange equipment and hastily put his hand under the counter where he was supposed to keep his arsenal of democracy. When I assured him I was looking for cowboy songs his face relaxed. . . . As I sipped a glass of beer, I noticed on the bar a stack of broadsides titled "Hell in Texas." . . . It turned out my friend had two hobbies: He was interested in ballads and on the walls of his saloon hung one of the world's largest collection of horns. I had come to the right place.

Lomax commented on the "Hell in Texas" broadsides, whereupon the proprietor told him an old Texas story, with a new twist. It was about how Gen. Phil Sheridan, when a young lieutenant stationed in San Antonio, had said that if he owned both Texas and Hell, he would rent out Texas and live in Hell. To which a Texan retorted, "Well, damn a man that won't stand up for his own country." Continuing his story, Lomax wrote:

Then . . . [the proprietor] told me of a Negro singer who ran a beer saloon out beyond the Southern Pacific depot in a scrubby mesquite grove. This Negro had been a camp cook for years and had made the trip up the Chisholm Trail half a dozen times. Moreover, he claimed to have cooked for Sam Bass's outfit. "He can give you a lot of cowboy songs if you can get him to sing," said my friend.

That same afternoon I found my man behind his saloon shack with his hat pulled down over his eyes, his head tilted back against a mesquite tree. When I shook him awake and told him what I wanted he muttered, as he looked at me with bleary eyes, "I'se drunk. Come back tomorrow and I'll sing for you."

I spent all the next day under the mesquite with this Negro. Among the songs he sang for me was "Home on the Range," the first time I had heard the melody.

From the record I made that day down in the Negro red-light district (they used stolen switch lanterns to advertise the trade), Henry Leberman, a blind teacher of music at the State School for the Blind in Austin, a few weeks afterwards set down the music. Leberman used earphones and played the record over and over again until he felt sure that he had captured the music as the Negro saloonkeeper had rendered it. This music, printed in the 1910 edition of *Cowboy Songs*, makes up the core of the tune that has become popular. . . .

For twenty years the song remained unnoticed among twenty-seven other cowboy songs, the music of which Henry Leberman also wrote out for my book.

In 1925 Oscar J. Fox of San Antonio first put the song into sheet-music form. Five years afterwards David Guion of Dallas followed with another arrangement. During the next six years eight other publishers of music issued the song in a slightly different musical dress. All followed closely the words and tune and order of stanzas I first printed in 1910.⁴

This story, though it indicated that the song was known long before the Goodwin copyright of 1905, was not evidence Moanfeldt could take into court. News of the lawsuit, however, had brought in many letters, and among them one from a Chicago woman who stated that in 1880 the song

4. *Ibid.*, pp. 1, 2.

had been sung regularly by the pupils of the Stanberry Normal School in Missouri, which she had attended.⁵ Since this was the earliest date so far ascribed to the song, Moanfeldt began interviewing the old graduates whose names she gave him. Several made affidavits that before 1890 "Home on the Range" had been sung at meetings of their Crescent society, without printed words or music, like a folk song.

These interviews convinced Moanfeldt that the ballad had originated in the cowboy country. He went to Dodge City, where he talked with ex-cowboys, ex-cooks of cowboy camps, ex-stagecoach drivers and old-time buffalo hunters. They gave him signed statements that it had been well-known in the cow camps prior to 1890, and he reported:

The number of people who furnished such statements satisfied me that we would have sufficient proof for the purpose of defense of this suit to defeat the action even at this point, and my next step was directed to establishing the author or authors of the verses and music of "Home on the Range." In this connection, the story of "Colorado Home" . . . became of importance. . . . I therefore went to Leadville, Colorado, which is three miles from Orro City, named as the locale where the writing of "Colorado Home" took place.

This song is one of the earliest examples of the plagiarism which "Home on the Range" has always inspired. It was published with music long before any other version. As late as 1945, Sigmund Spaeth, nationally known as the "tune detective," stated his belief that it was the original. A Colorado senator once had it printed in the *Congressional Record* as a product of the state. Spaeth's account of the so-called composition of this song appeared in the *Rotarian*. He wrote:

It was the late Kenneth S. Clark, Princeton's favorite musical son, who dug up the story under *Home on the Range*. In the middle '80s a group of prospectors, headed by C. O. ("Bob") Swartz . . . lived in a cabin—which they called the Junk Lane Hotel—near Leadville, Colorado. All musical, they filled their evenings with friendly and often improvised harmony. On a night early in 1885 they worked out a melody and set words to it to create the song which the world now sings as *Home on the Range*. They however, called it *Colorado Home*.

A letter from Bob Swartz to his "Dear Folks," dated February 15, 1885, describes the event and gives the complete words and music, which are almost identical with those of *Home on the Range* as it is known today. There are slight differences in the melodic line, and it was only later that the text acquired a definite cowboy slant. But the song is all there in the faded yellow letter which Bob's sister, Mrs. Laura M. Anderson, discovered among her belongings in 1930. . . .

Upon finding Bob's letter . . . , Mrs. Anderson sent him a copy of it. In his reply, dated November 14, 1930, he said he could still see "the whole gang setting around on soap boxes & on the bed, all trying to make the lines rhyme so they sounded like poetry. . . ."

Spaeth closed his article with this comment:

5. Moanfeldt, "Report." Samuel Moanfeldt's report to the Music Publishers Protective Association, a copy of which he presented to the Kansas State Historical Society. As an interesting example of the legal mind doing historical research, it is printed in full at the end of this article.

In its issue of July 30, 1945, *Life* magazine makes the rather astonishing statement that *Home on the Range* was written by a "Dr. Brewster Higley" in a Kansas cabin, in 1873; that Dan Kelley, of Gaylord, made up the tune on his guitar. I have seen nothing yet that would cause me to desert the Swartz story."

Moanfeldt's account of his researches on "Colorado Home" take up over two pages in his report. This was not because he thought it the original but because it helped disprove the priority of "An Arizona Home." Already he had received many letters which pointed to Kansas. One of these was from a woman who owned a scrapbook containing an article which indicated that "Home on the Range" had appeared in the *Smith County Pioneer* in 1873. He went to see her and discovered that her article was a reprint. He then went to Smith Center, sure that he could locate one of the original copies. But it turned out that this issue, which would have settled all controversy, was missing from the *Pioneer's* files. Sometime after 1914, when the reprint was made, it had been lost or destroyed. A reward of \$25 was offered for a copy, but none has ever come to light.

To some, including Sigmund Spaeth, this 1914 reprint was suspect and never acceptable as evidence that the song antedated "Colorado Home." But to Moanfeldt, the comments of the 1914 editor made it authentic, for he had written:

The writer well remembers when this song first came out and was well and intimately acquainted with the author. . . . Its cheering words helped to dispel the gloom of the "Grasshopper Days" and the writer can remember of humming the fascinating words while traveling over the desolate prairies and at the same time wishing there was some way of getting back to the pleasant Pennsylvania home we had so recently left, but the fates were all against us and we are glad of it now. . . . After a lapse of more than forty years we again offer to the readers of *The Pioneer* the good, old time song it first published in 1873.⁷

Other old-timers soon convinced Moanfeldt that he had at last found the home of "The Home." The part of his report where he describes the end of his search, is worth quoting:

A Mr. Reese who now resides at Smith Center and who is one of the oldest pioneers in the section stated that he came to Smith Center in 1872, about one month before the town of Smith Center was established, that he came in contact with Dr. Bruce Higley, who had a homestead about twenty miles away on the banks of the Beaver, near the Solomon River, in June 1872, and that the occasion of their meeting was an indignation meeting against the Indians, and that he met the Doctor frequently between 1872 and 1873. That some time in 1873, his friend, John Champlin was accidentally shot in the foot and that he called on Dr. Higley, who treated him and that thereafter Dr. Higley called several times a week at their Doby or Dugout to treat the patient, and that he remembers distinctly on one of these occasions Dr. Higley, while treating the patient asked him to read a poem he had written. It was on a foolscap sheet of paper and the Doctor stated that he had written it to while away his lonesome hours spent in his log cabin. That this was "Home on the Range" as it is now known, and that they all insisted that the Doctor get somebody to write the tune. That thereafter Dan Kelley supplied the tune and the Harlan Bros. Orchestra played it. . . . That

6. Sigmund Spaeth, "Home on the Range," *Rotarian*, Chicago, v. 67 (November, 1945), p. 27.

7. W. H. Nelson, *Smith County Pioneer*, Smith Center, February 19, 1914.

he recognized the tune immediately, when it started to become popular on the radio.

A very interesting statement was furnished by one Clarence B. Harlan. Mr. Harlan was born in 1849, is now 86 years old, and came to Smith Center in 1871. He is the brother-in-law of Dan Kelley. . . . About 1874 he played the guitar and his brother Eugene Harlan, who was ten years younger, played the violin. They composed the Harlan orchestra. . . . That Dan Kelley, his brother-in-law, knew music and had a great voice and that among the songs they played was a song known then as "Western Home" which is now known as "Home on the Range." . . . That he remembers the words perfectly and after being requested by me he brought out his guitar and played and sang this song from memory, using the tune as he knew it in 1874 and ever since, and as it was composed by his brother-in-law, Dan Kelley, I procured a recording machine and made phonograph records of this rendition of the song.

At this point, it is interesting to know that he followed the words as appeared in the paper in 1914, and that although Mr. Harlan sang this from memory he didn't miss a word. Mr. Harlan stated that the way the tune was made by Dan Kelley was that Dan tried several tunes to fit the words and after Mr. Harlan and his brother Eugene tried them on their instruments several were rejected until Dan captured the tune that is now used in "Home on the Range." That it was never written down but that he and his brother learned to play it on their instruments and after playing it at all celebrations and parties it began to spread all over and was the most popular tune and generally called for at all parties and celebrations. . . . Mr. Harlan is blind but I thought that it would be best to make phonograph records of his playing and singing of this song which I did, and the same are now in the possession of the MPPA [Music Publishers Protective Association].

During the years, Harlan no doubt had heard many versions of "Home on the Range" and knew that other persons had claimed authorship, though Moanfeldt does not mention it. The first plagiarism there is any record of occurred shortly after the Harlan "orchestra" was formed. This was in 1876 and fortunately it occasioned the earliest publication we have of the poem. The editor of the *Chief* of the neighboring town of Kirwin printed the verses on the first page, heading his story with the single word, PLAGIARISM:

The editor of the *Stockton News* has allowed himself to become the victim of an ambitious aspirant for poetical fame. In his issue of Feb. 3d., 1876, he publishes under the head of "My home in the West" a poem, purporting to have been written by Mrs. Emma Race, of Raceburgh, Rooks county, Kansas. The poem in question, with the exception of two words, was written by Dr. B. Higley, of Beaver creek, Smith county, Kansas, and first published in the *Kirwin Chief*, March 21st, 1874. We re-publish the article as written by Dr. Higley, and ask our readers to compare it with the stolen article from Raceburgh. Bro. Newell must look to his laurels, as he will find plenty of people who are willing to profit by the brain work of others.⁸

One of the curious things about "Home on Range" is the number of persons who claimed authorship, or had it claimed for them. The most notorious attempt to profit by the song was of course the Goodwins' half-million-dollar lawsuit, which never came to trial, due to Moanfeldt's investigation. Other claimants apparently merely wanted a little easy fame.

8. The *Kirwin Chief*, February 26, 1876. It was not discovered till ten years after the lawsuit that this paper, which had been in the Kansas State Historical Society's files since it was published, contained the text of the song.

The story of "Colorado Home" is told in some detail in the Moanfeldt appendix to this article. Two of the claims are of interest because they show how the song was carried from Kansas to other parts of the frontier.

E. M. Baldridge of Kansas City, Mo., in a letter to the *Kansas City Star*, said:

I read there is a controversy over the authorship of the song, "Home on the Range." As a boy 10 years old I accompanied my father to the opening of the Gunnison country in Colorado in the winter of 1882. We joined a caravan of wagons at Gunnison City and went over the mountains to Grand Junction, arriving there soon after the Ute Indians had been removed.

About half-way there we encountered a soldier of fortune named John Teits, who had left some freighters when they turned off at that point. We took him—with his little batch of flapjack flour, bacon and a frying pan—on our wagon. This was miles from any homes. Through the day and in camp at night he would sing that song, asserting he was the author of it.

He had us singing it. There were three or four sour notes when we came to the line, "where the deer and the antelope play." Otherwise the song over the radio these days is the same.

Until I heard the song on the radio about two years ago, I had not heard it since '82.

A few days after the above was printed, the *St. John County Capital* carried a story about a Dr. W. D. Kirby who believed an old-timer by the name of John Trott was the author. He said that as a pupil of the "old Oak Creek school of Cheever township," north of Abilene, he used to sing "Home on the Range," though it was known as "Home Where the Buffalo Roam." He continued:

I have heard all the 18 or 20 pupils of our school singing the chorus on the playground. . . . Very few of us knew the entire song. I remember distinctly at one of our Literaries our teacher made this announcement: "We will now have a song by Dave Knisely entitled 'Give Me a Home Where the Buffalo Roam.' And I might add the writer of this song is John Trott. No doubt many of you know him." The Kirby family didn't know him as we were newcomers just arriving about a year before, but quite a number of our neighbors did. One old settler said he was a crazy old bachelor. His wife said all old bachelors were that way, if they weren't they wouldn't be old bachelors. A more musical neighbor woman told us she had met him and heard him play and she thought he was a natural musician, in fact she thought him quite a musical genius and told us he had written several quite good songs besides "Home Where the Buffalo Roam." Several of our neighbors said most any pleasant evening you would find him seated in front of his dugout playing some musical instrument. His claim was over in Mud Creek neighborhood.

During the years of the popularity of that song in our school, I know ten or a dozen young men all of our school district who went every summer to Arizona to work in the roundups. Several were somewhat musical. Dave Knisely was one of them, the first person I heard to sing that song. . . . [There is] no doubt in my mind that the author of that song is John Trott, at least he got credit for it in the north end of Dickinson county, where I lived from '82 to '91. How large the circle of its popularity I do not know. In all my wanderings since '91 I had never heard it till recently over the radio. I thought I was dreaming and back in old Oak Creek school house and Dave's voice had changed, although I know he had "gone to his last round-up" 20 years ago.¹⁰

9. *Kansas City (Mo.) Star*, March 17, 1935.

10. *The County Capital*, St. John, April 4, 1935.

THE SONG AS RECORDED BY JOHN LOMAX

(From *Cowboy Songs* (The Macmillan Company, New York, 1925))

Home on the Range

Oh, give me a home where the buf - fa - lo roam,

Where the deer and the an - te - lope play;.....

Where sel - dom is heard a dis - cour - ag - ing word

Home on the Range—Continued



And the skies are not cloud - y all day.

REFRAIN



Home, home on the range, Where the deer and the antelope play;



Where sel - dom is heard a dis - cour - ag - ing word



And the skies are not cloud - y all day.

As Dr. Kirby suggests, nothing in the history of the song is so remarkable as the way it spread from one singer to another until it was known everywhere on the Western frontier. One writer has said, "With neither printed words nor music, far out on the unsheltered plain, 'Home on the Range' became a song hit 1,500 miles west of Broadway!"

This was due to the special conditions existing on the frontier in 1873. Already the buffalo hunters were turning south from Kansas. The railroads, and the pioneers with them, were building west. Above all, the great cattle trails were expanding, and shifting to meet the railroads. Only the year before the song was written the Santa Fe reached Dodge City. Almost overnight the town became the largest cattle market in the world and the shipping center of the Southwest. The hunters who exterminated the buffalo here marketed several million dollars worth of hides and meat. Hundreds of wagon trains carried supplies to Western towns and army posts. By 1875, three years later, nearly all cattle trails led to Dodge; in 1884 Texas drovers alone brought 106 herds numbering 300,000 head.

It is perhaps more than a coincidence that the life of Dodge City as a great cattle market, from the early 1870's to the middle 1880's, approximated that of the first life of "Home on the Range." Like a broadcasting station, the town popularized the song through the channels that converged there.

An old-time buffalo hunter, John R. Cook, in a book entitled, *The Border and the Buffalo* (1907), claimed that the writer of the song himself went to Texas on "the big hunt." Although there is no evidence that either Higley or Kelley ever made such a trip, it would have been in character for Kelley. He was well known as a sportsman and had more than a local reputation as a crack shot. In 1876, matched against a Colonel May of Kirwin in a quail hunting contest, he won by 52 birds to 51. Another time, in a three-way shoot, he won by killing 51 birds with 52 shots.

Dr. Higley, on the other hand, in his one-room dugout on the banks of the Beaver, led a solitary life. Whether it was the life of a solitary drinker, as some have said, or that of a man self-isolated from his demon, is not known. More likely the latter, for he afterwards married again (for the fifth time) and lived normally with a family.

Whatever the private lives of the collaborators, critics who doubt that they could have written the famous song do so in ignorance of their talents. Higley had long been a "writing" doctor. A poem still exists in manuscript, inscribed to "Dryden, Eng. Poet," nine pages long and penned in old-fashioned heavily-shaded script.¹¹ He wrote at least three other songs, one of which became popular at the close of the Civil War. And Dan Kelley, though not known to have written other music, "could play any kind of

11. Homer Croy, *Corn Country* (New York, 1947). One of the best chapters in this book is entitled, "The Amazing Story of 'Home on the Range'." Mr. Croy's research included visits to Smith Center, Kan., and Shawnee, Okla.

horn" and had a splendid voice and was extremely popular as an entertainer.

Of the two, Higley had the better education, and came from rather a distinguished family. According to *The Higleys and Their Ancestry*:

Brewster Higley, 6th, M.D., the third child of Brewster Higley, 5th, and Achsah Everts, was born at Rutland, O., November 30, 1823, three months after decease of his father. On the decease of his mother he resided with his grandfather, Judge Brewster Higley, 4th, and afterward with his sister.

At the age of eighteen he began the study of medicine in the village of New Plymouth, O. His first medical practice was in Pomeroy, O. In the spring of 1848 he removed to La Porte, Ind., and formed a partnership with his uncle, Dr. Everts. From the medical college located at La Porte, he took his medical degree February 22, 1849. He also became a member of the Northwestern Academy of Natural and Medical Science. He practiced his profession in La Porte twenty-six years.

Dr. Brewster Higley married, October, 1850, Maria B. Winchell, who bore one child, born September, 1851, a son, who died a few days old. His wife fell a victim to a prevailing epidemic in May, 1852. August, 1853, Dr. Higley married Eleanor Page, who bore one son, *Brewster Higley*, 7th. His second wife died soon after the birth of this child. His third marriage was in 1857 to Catherine Livingston. From this marriage there were born two children—*Estelle*, born April 4, 1859, and *Arthur Herman*, born September 3, 1861, both living; but his wife met with an injury, of which she died, June 3, 1864.

In the spring of 1871 Dr. Higley removed to Smith County, Kans., where he married, March 8, 1875, Sarah E. Clemans. To them four children were born, viz.:

Sanford, who died in 1878; *Achsah*, born 1877; *Everett*, born July 26, 1880; and *Theo.*, a daughter, born September 10, 1882.

While living in Smith Center, Kans., Dr. Brewster Higley, 6th, was elected and served one term as clerk of the court of the fifteenth judicial district for his county.

The climate of Kansas proving too severe for his health, he sold his farm in 1886, and removed to Van Buren, Crawford County, Ark., where he now resides. He has retired from professional life, and is engaged in farming and fruit-growing.¹²

Another Kansan, John Brown, whose name is also connected with a famous song, has a chapter and a full-page engraving devoted to him in this Higley genealogy. Brown's father and mother were both great grandchildren of Brewster Higley, I. He and Doctor Higley, therefore, were related to the extent that Brown was fifth in line from Brewster Higley, I, and Higley was sixth.

There are several discrepancies in the above statement from the genealogy. They were discovered by Russell Hickman, a former member of the staff of the Kansas State Historical Society, who now lives in La Porte, Ind.¹³ Higley's first marriage was in 1849 and not 1850, and his third marriage was in 1858, not 1857. He did not practice in La Porte as stated, but probably began at the nearby town of Kingsbury, where he lived until 1852 when he moved to Union Mills. It is known that he prac-

12. *The Higleys and Their Ancestry* (New York, 1908), pp. 269, 270.

13. Russell Hickman, "Report." Mr. Hickman spent several weeks investigating Higley's life in Indiana before he came to Kansas. The report consists of letters, copies of records and signed statements.

ticed at Union Mills, which is a small town southwest of La Porte, and it appears from statements secured by Mr. Hickman that he stayed in that vicinity until he left for Kansas about 1871.

The principal discrepancy, however, is the omission of the fact that Higley was married to a fourth wife before he left for Kansas. She was Mrs. Mercy Ann McPherson, a widow, and their marriage took place February 28, 1866. At this time Higley was still practicing medicine at Union Mills, although he later moved to nearby Indian Point where the family lived in a log house. According to statements made to Mr. Hickman in February, 1949, by persons who remembered Doctor Higley, he and his wife were incompatible. It was recalled that he finally sent his children to relatives in Illinois and eventually left Indian Point for an unannounced destination.

How much Higley's addiction to liquor was responsible for the separation cannot be known. It seems clear that at the time he was a heavy drinker and a very poor man. One winter, according to a signed statement obtained by Mr. Hickman, the family lived chiefly on corn meal. "Dr. Higley was considered a very fine doctor, and a brilliant man," Mr. Hickman's informant stated, "but he let liquor get the better of him. After he left, his whereabouts were entirely unknown."

Nine years after their marriage Mrs. Mercy Higley got a divorce by default after three notices by publication in the *Michigan City (Ind.) Enterprise*. The decree was effective February 9, 1875. A month later Doctor Higley was married in Kansas for the fifth time. Although he sometimes drank to excess in Kansas he was apparently able to achieve a normal life after this last marriage. Perhaps this was due to the absence of the "discouraging words" which have been ascribed to his unfortunate fourth marriage. About the time of his Kansas marriage the dugout he was living in when he wrote "Home on the Range" was replaced by a log cabin. (This cabin still stands and is often erroneously referred to as the place where the song was written, but the original dugout is gone.) And a few years before he left Kansas Doctor Higley sent for his two children by his third wife and moved into a house a short distance north of Smith Center. Little is known about his subsequent life in Arkansas and Oklahoma. It may be presumed that he had found happiness with his fifth wife, for on the certificate of his death the attending physician stated that the contributing cause was "grief over the death of his wife."

W. H. Nelson, the editor who reprinted the poem in 1914, said that Higley was "rough and uncouth in appearance, but with a heart filled with . . . compassion for suffering humanity. As a doctor . . . no night was too dark or trail too dim to deter him from answering a demand for service and there are no doubt many yet living in Smith county who owe a debt of never ending gratitude for his timely medical attention. . . ."

Homer Croy in his book has an interesting account about Higley's immediate descendants. He quotes Harry Higley as saying that Doctor Higley "was Brewster Higley VII. My father is Brewster Higley VIII. I am Harry Brewster Higley IX and my son is Brewster Higley X."¹⁴ This is not in accordance with the Higley genealogy, quoted above, which stated clearly that the Doctor Higley who settled in Smith county, Kansas, was Brewster Higley VI.

The composer of the melody, Daniel E. Kelley, was born February 6, 1843, at North Kingston, R. I., the son of Sylvester E. Kelley, a carpenter, and Sarah (Cory) Kelley. At the age of 20 he enlisted in the 3rd regiment, Rhode Island cavalry. After a year as bugler in Company B, he was transferred to regimental headquarters as chief bugler to the noncommissioned officers staff. On September 1, 1865, he was made a sergeant major and on November 29 he was mustered out, having served a little over two years.¹⁵

When Kelley came to Kansas in 1872 he was 29. He settled at Gaylord and two years later married Lulu Harlan, of the neighboring village of Harlan, by whom he had four children, all boys. In the censuses of 1880 and 1885 he gave his occupation as carpenter. During his earlier years in the state, however, he was apparently a man of many devices. With his wife, and her two brothers who composed the Harlan orchestra, he was in demand for dances and celebrations over a territory that extended as far as Hays, a hundred miles southwest, a great distance in those machineless and almost roadless days.

In addition to being an entertainer and sportsman, Kelley was one of the leading businessmen of the community and something of a promoter. Items about him in the local papers of the period included the following:¹⁶

. . . the contract for the building of the new hotel at Bradford has been let to Mr. D. E. Kelley.

Mr. Dan Kelley is the Architect of the town and has four buildings contracted for at present.

Dan came to this County . . . when the buffalos and wolves held undisputed sway. . . . He now has one of the best farms on the Solomon Valley. . . .

Daniel E. Kelley was busy building a big glass front for a temperance billiard hall.

Daniel E. Kelley, of Gaylord, has built him a livery stable, size 28x50, with a good well of water, and a force hose to clean buggies. Dan also has one of the neatest cottages in town.

14. Croy, *op. cit.*

15. Waterloo (Iowa) *Daily Courier*, October 24, 1905; *Annual Report of the Adjutant General of the State of Rhode Island . . . for 1856* (republished in Providence, 1895), p. 265.

16. *Smith County Pioneer*, June 9, 1877, December 13, 27, 1878, March 21, and September 12, 1879; *Gaylord Herald*, February 26, April 8, and June 24, 1880; *Smith County Pioneer*, July 22, 1881; *Gaylord Herald*, October 20, 1881, and May 11, 1882.

[D. E. Kelley was one of the petitioners for incorporation of Gaylord as a city of the 3rd class in the state of Kansas.]¹⁷

On last Monday morning the following persons took their departure for . . . Wyoming Territory . . . H. D. Pratt, W. Henry Kelley; D. E. Kelley; [and a dozen others]. . . . They organized a mining company and intend to work what is now supposed a rich section of country.

[A Herald reporter found that the expedition had not succeeded and that two of the men had already returned to Gaylord. Apparently very little gold was to be found.]

[D. E. Kelley was delinquent on property tax in the amount of \$14.74.]

Daniel Kelley has sold his farm to Captain L. D. Frogge, . . .

Our ingenious friend, Mr. D. E. Kelley, has invented an entirely new and novel automatic car coupler which is intended to take the place of the old-fashioned coupling now in general use and which has been the cause of so many fatal accidents on our railroads. This coupler is entirely self-acting, and works as well on cars of different heights as on those of the same height. . . . Mr. Kelley has applied for a patent.

This car coupler and the melody of "Home on the Range" are the only examples we have of Kelley's inventive talent. So far as known, nothing ever came of the patent. As to the tune of the song which has since given pleasure to millions, there is no reason to believe Kelley ever wrote it down. When he composed it he was 30 years of age and Higley was 50. They never collaborated again nor had any thought that their song would be more than a local success. Both probably left Kansas without even being aware of the popularity it had achieved throughout the frontier. Higley lived in Kansas 13 years after the song was written and Kelley 16. Higley moved to Arkansas and then to Shawnee, Okla., where he died May 10, 1911, at the age of 87. Kelley moved to Waterloo, Iowa, in 1889, and died there October 23, 1905, at the age of 62.

The posthumous fame which "Home on the Range" has brought to Higley and Kelley might have been lost to them if the Goodwins had not claimed the song, for without Moanfeldt's research it is doubtful if their authorship would ever have been established. And without the lawsuit, the ballad probably would not have been made the state song of Kansas. It was Moanfeldt's affidavits that convinced critics the song belonged to the state. It required 12 years to make it official, but in 1947 "Home on the Range" was officially adopted by the Kansas legislature.

The verses which appear in the bill came from Mrs. Cal Harlan, who had written them out for a friend some years before. They differ only a little from the versions printed by the *Kirwin Chief* in 1876 and in the *Smith County Pioneer* in 1914 (reprinted from the 1873 issue). The "official" stanzas, referred to hereafter as the Harlan version, are printed below. All variations from this version, which may or may not have been what Higley wrote, are mentioned. While this may seem a little pedantic,

17. Gaylord is about 12 miles south of Smith Center which is the county seat of Smith county. Higley's homestead in Pleasant township was about the same distance northwest. About ten miles east and three north of Smith Center is the geographic center of the United States, established by the U. S. Geological survey. Forty miles south, in Osborne county, is the continental geodetic center, the "primary station" for all North American surveys, established by the U. S. Coast and Geodetic survey.

it is of interest for the reason that from 1873, when the song was written, to 1910, "Home on the Range" was in fact a folk song. The origins of folk music are seldom known, but in this instance we have a song whose three earliest versions may be compared not only with each other but with a fourth version modified by 37 years of folk singing.

The Harlan version:

Oh, give me a home where the buffalo roam,
Where the deer and the antelope play,
Where seldom is heard a discouraging word
And the sky is not clouded all day.

Chorus:

A home, a home where the deer and the antelope play,
Where seldom is heard a discouraging word
And the sky is not clouded all day.

Oh, give me the gale of the Solomon vale,
Where life streams with bouyancy flow,
On the banks of the Beaver, where seldom if ever
Any poisonous herbage doth grow.

Oh, give me the land where the bright diamond sand
Throws its light from the glittering stream
Where glideth along the graceful white swan,
Like a maid in a heavenly dream.

I love the wild flowers in this bright land of ours;
I love too the wild curlew's scream,
The bluffs and white rocks and antelope flocks
That graze on the hillsides so green.

How often at night, when the heavens are bright
With the light of the glittering stars,
Have I stood here amazed and asked as I gazed
If their glory exceeds this of ours.

The air is so pure, the breezes so free,
The zephyrs so balmy and light,
I would not exchange my home here to range
Forever in azure so bright.

The title as it appeared in the *Chief* was "Western Home." The *Pioneer* called it "Oh, Give Me a Home Where the Buffalo Roam." The first stanza was the same in all three versions, except that in the third line both newspapers printed "never" instead of "seldom." The chorus was the same in all three, except that the *Pioneer* used "never" instead of "seldom."

In the Harlan and *Pioneer* versions the second stanza mentioned the Solomon vale, but in the *Chief* the second and third stanzas (as given above) were transposed, as were the fourth and fifth. The *Chief* gave "a gale" in the first line instead of "the gale." The second line was different in all three. The *Chief* gave "where the life streams with bouyancy flow," and the *Pioneer* gave "where light streams," etc.

In my opinion, none of the three was the line Higley wrote, and if this is true it indicates that neither newspaper printed the poem from an author's copy. Mrs. Harlan's version of course was from memory, after many years. The line as it stands in all three versions is a nonsense line,

such as we find in many folk songs, the corruption resulting from learning the song by ear. In most folk songs it is now impossible to know or even guess at the original meanings of such lines. But in this case, I believe, it is clear that the line Higley wrote was "where live streams with buoyancy flow." Anyone familiar with the history of the prairies knows how often the pioneers referred to "living" water, meaning running water, and in the case of very small streams usually meaning they were spring fed. To the homesteader on the plains where storms or spring rains frequently filled low places with stagnant water and where summer droughts often dried up creeks which at other times ran bank full, a stream that could be depended on for fresh "live" water was a necessity.

The living water Higley referred to in the last two lines of the second stanza flowed in the West Beaver past his homestead dugout. In all three versions these lines were the same. The last line, as Homer Croy says, "is surely the worst bit of verse a well-intentioned poet ever left behind. No wonder the old gentleman pulled for Oklahoma. Thank goodness, the people who later tinkered with the song threw out the poisonous herbage."

In the third stanza the *Chief* gave "land," not "the land," used "streams" and "dreams" (plural), and gave "the maid in her heavenly dreams." The *Pioneer* used "Throws light" in the second line, and in the last line, "her" heavenly. Some critics have objected to this stanza, claiming that there were never any wild swans in Kansas. A few, too, have stated that there were no buffalo, deer or antelope in Smith county in 1873 when Higley wrote the song. However, in 1876, three years later, the following items appeared in the *Pioneer*:¹⁸

Sportsmen will find in this county, in the way of feathered game, wild turkey, quail, grouse, prairie chickens; and in the fall and spring of the year millions of prairie pigeons, or snipe, cover our prairies, and the lakes and streams are alive with wild ducks, geese, brants and swan.

Antelope are plenty in the north part of the county. No buffalo have, as yet made their appearance this spring.

A small herd of buffalo are reported to be grazing in northwest part of this county, near the brakes of the Republican.

In the fourth stanza the first line was the same in all versions except that the *Pioneer* gave "these" wild flowers instead of "the." The second line was slightly different in all three. The *Chief* gave "I love the wild curlew's shrill scream," while in the *Pioneer* the line was "I love, too, the curlew's wild scream."

The curlew Higley knew was probably the Long-billed Curlew (*Numenius americanus americanus*). According to Goodrich's *Birds in Kansas*, this species which once inhabited "the muddy flats and grassy plains of the slopes of the Rockies, . . . is possibly extinct over much of its former range. . . . This easily identified bird is considered a rare summer

18. *Smith County Pioneer*, July 27, June 9 and July 13, 1876.



DR. BREWSTER HIGLEY
(1823-1911)

Pioneer Smith county doctor who wrote the words of "Home on the Range." The picture was received through the courtesy of Bernard P. Higley of Columbus, Ohio.

Job Printing
THE KIRWIN CHIEF
Job Office,
East side Public Square,
First door south of the Post-
office, Kirwin, Kan.

Kirwin



W. D. & C. F. JENKINS, Proprietors. "Fearless and Free."

VOL. 3. KIRWIN, KANSAS, SATURDAY FEBRUARY 26, 1876. NO. 11

"WESTWARD THE MARCH OF THE EMPIRE TAKES ITS WAY."

I hear the tread of pioneers
 Of nations yet to be,
 The first low wash of waves, where none
 Shall roll a human sea.
 Behind the searoad squaw's birch canoe,
 The steamer smokes and raves,
 And city lots are staked for sale
 Above old Indian graves.

The rudiments
 Are plastic
 The chaos of a
 Is rattling.
 Each rule and
 Its footing pin
 The new masters
 Its muscle as

No portion of the west offers greater inducements to the farmer, merchant or mechanic, than is to be found in the Kirwin Land District. Good homesteads can yet be secured near all the towns, and the rapid increase in value, will insure a four-fold return of improvement. To those who intend seeking locations in the west, who want a healthy climate, good soil, good water, good schools and churches, and good society, we



HOMESTEAD SCENE IN THE KIRWIN LAND DISTRICT.

The Kansas Emigrant's Song.
Air—Auld Lang Syne
 We cross the prairies as of old
 The pilgrims crossed the sea,
 To make the West as they the East,
 The homestead of the free.
 O—The homestead of the free, my
 The homestead of the free, [chorus]
 To make the West, as they the East,
 The homestead of the free
 We go to seek a new home
 On Freedom's Southern shore,
 And plant beside the cotton tree,
 The rugged Northern pine
 We're flowing from our native hills
 As our free rivers flow,
 The blessing of our mother land
 In on us as we go.
 We go to plant our common schools
 On distant prairie swells,
 And give the Sabbath of the wild,
 The sound of its bells.

Uplifting like the ark of old,
 The Bible in our van,
 We go to seek the truth of God
 Against the truth of man.
 No pains, nor real estate where the
 That feed the Kansas man, [chorus]
 Have where our pilgrim found
 Shall find the setting sun.
 We'll sweep the prairies as of old
 Our fathers swept the sea,
 And make the West, as they the East,
 The homestead of the free.
Call To Kansas.
Air—My Old
 Ye men of strong, higher thought,
 Nature's chosen men,
 Ye men who will not bow
 God and man again,
 Bring the noble, brave old men
 True the earthy soil,
 Prudence in the noblest way.

PHILLIPS COUNTY CONDENSED.
 Phillips county contains an area of nine hundred square miles or 576,000 acres of land. The county was organized in 1852. Population in 1873 1,500; in 1874 2,500.

Chief.

and Free." 61, 60 per year. In Advance

DAY FEBRUARY 26, 1876. NO. 11

"EMPIRE TAKES ITS WAY."

English love,
 and warm
 the world
 novel.
 long forgotten poem
 shall find—
 a State,
 to build

And weeping will, the war which leads
 The New World in its train
 Has tipped with fire the key squares
 Of many a mountain chain
 And lo! the glorious realm unswayed
 You stretching valleys green and gay
 And you free hill tops and whose head
 The lower white clouds are borne away.



say you can find all these in the country comprising this land district. The past winter has been remarkably mild, and cattle have in many instances, wintered through without feed, other than that obtained by grazing. The prairie grass is of the most nutritious quality and cattle fatten upon it ready for market, without other feed. The few sheep ranches in the county are doing extremely well, the sheep being entirely free from disease.

For the true man's toil,
 Do brethren come, brothers!
 Hasten all with me,
 We'll sing upon the Kansas plains
 A song of glory!
 Father have! 't is the waste
 Lies a pleasant land,
 Three year friends' other states,
 Placed in truth shall stand,
 Their game woe, leave and good,
 Shall be treated as
 Glad to brighten of right,
 Wrong to coordinate.
 The brethren come, brethren,
 Hasten all with me,
 We'll sing on.
 Mother come! here's a home
 In the waving west,
 Bring the seeds of love and peace,
 You who ever them beat,
 Faithful hearts, and prayers,
 Give from heart the best,
 And a mother's tears have set,
 Golden crops shall bear.

Come, mother! fond mother,
 Like we call to thee:
 We'll sing on.
 Brother leave, step the wave
 Firm the prairie land,
 Up the dark Missouri flood
 Be your witness spread,
 Never true, join us too,
 Where the Kansas flows,
 Let the Northern life bloom
 With the Southern rose
 Three brother, true sons?
 Let us call to thee:
 We'll sing on.
 One and all here and
 Echo through the land,
 And so with a willing heart,
 And the strong right hand
 Fend the weak the tyrants' track
 To the old Plymouth rock,
 To the watch fires of the free
 Millions glad shall be
 His brethren's come brethren,
 Hasten all with me,
 We'll sing on.

valued at \$200,000. The value of other farm products for 1875 is estimated at \$300,000.

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will repeat the story of Illinois in the race of progress, on an increased and more liberal scale. We have fifty two million acres of land. Ten years hence our real estate ought to be and we believe will be worth eight hundred million dollars.

Come To Kansas.

There are more than usual indications of a heavy immigration next spring to this country. Hard times at the east and poor crops, have made the people uneasy, and their eyes are turned again to the fertile and productive west. Kansas offers an inviting field for immigration. It is a rich field of produce. The settler lives cheaply until he raises his own crops. Land is cheap here. Our state favors the seeker of a good home and cheap lands, the best of climate, the richest of soils, churches, railroads, and all the requirements and adornments of an advanced civilization already provided. All these advantages the western bound emigrant will not overlook. They should be kept constantly before his mind. Immigration is the lifeblood of the commonwealth. Our eastern friends should be constantly advised of the fact that all things considered, Kansas is the most desirable of all the western states in which to make a home.

Hon. Chas. Sumner, in the U. S. Senate, May 19, 1856 in a speech on Kansas, said:
 "A few short months only have passed since this spacious, fertile, and healthy country was open only to the savage, who ran wild in its woods and prairies; and now it has already drawn to its bosom, a population of freemen larger than Athens crowded within her historic gates, when her sons, under Minutemen, won liberty for mankind on the field of Marathon; more than Sparta contained when she ruled Greece, and sent forth her devoted children, quivered by a mother's hand, to die for the freedom of the world."

First page of the Kirwin Chief of February 26, 1876, containing the words of "Home on the Range." This is the earliest publication yet found of the poem which became the official state song of Kansas.

Although this issue had been in the Historical Society's collection for many years it was only discovered recently that Dr. Higley's verses had been printed there.



DANIEL E. KELLY
(1843-1905)

Pioneer of Smith county as he looked about the time he wrote the music for "Home on the Range." Picture courtesy of Mrs. Frank Kelley of Waterloo, Iowa.

resident in western Kansas, and may be seen in migration in April and in October in other parts of the state." It is possible that Higley referred to the Eskimo Curlew. Of this bird Goodrich says, "Once rivaling the passenger pigeon in abundance, this species seems to have joined the pigeon in extinction. It is reported that cartloads of eskimo curlew were once shot daily during migration up the Mississippi Valley."¹⁹

Evidence that the curlew was considered a game bird in Higley's time appears in the following, taken from a story headed "Kansas Field Sports" which appeared in the *Smith County Pioneer*, October 18, 1878: "Curlew are quite common in season. As a whole, Kansas is a capital country for field sports, and the many sporting associations formed, show that the advantages are appreciated."

The third line of the fourth stanza was the same in all versions, except that the *Pioneer* gave "the bluffs of white rocks." In the fourth line the *Pioneer* gave "our hillsides," while in the *Chief* the line read "That graze on the mountains so green." How the mountains got into this one version in a stanza so obviously descriptive of Smith county in Higley's day, it is impossible to guess.

In the first line of the fifth stanza the *Chief* gave "the heavens were bright," and in the next line the *Pioneer* used "By the light," etc. In the third line the *Pioneer* gave "stood there amazed," and in the last line gave "beauty" instead of "glory."

The last stanza, except for the third line, was different in all three versions. The *Chief* in the first line gave "and the breezes," while in the *Pioneer* the line was "The air is so pure and the breezes so light." In the second line the *Pioneer's* version was "The zephyrs so balmy at night." The only variation in the last two lines was in the *Chief*, which gave "azures" instead of "azure."

The third line, "I would not exchange my home here to range," was the same in all three, and probably may be accepted as the original. Sometime between 1873, when Higley wrote the poem in Kansas, and 1910, when Lomax got the verses from the Negro saloon keeper in San Antonio, this line was changed to the version which gave the song its present title. There can be little doubt that the improvement, "home on the range," was made by some obscure cowhand, who in broadening the meaning of the line to include all the range country, transformed it from a local ballad to one every Westerner could identify himself with. This simple change unquestionably had much to do with the song's acceptance as a typical cowboy ballad and its subsequent popularity.

The meaning of the word "range" as now used in the song has sometimes been misunderstood. Moanfeldt in his report (last paragraph) says

19. Arthur L. Goodrich, *Birds in Kansas* (Report of the Kansas State Board of Agriculture, June, 1945), p. 197.

that the word "evidently refers to a division of land running north and south through the County being about six miles wide," etc. It seems clear that Higley simply used range, the verb, as a synonym for rove. He was saying in poetical language that he wouldn't even leave Kansas for Heaven—not then being aware that in a few years he would lower his sights somewhat and leave for Arkansas. The noun, range, as used in the song to-day, has of course the meaning described in Webster: "That which may be ranged over; . . . esp., a sparsely populated and open region over which . . . livestock may roam and feed."

During the 37 years of the life of "Home on the Range" as a folk song there were remarkably few alterations either in the words or the music of the original. Dozens of different stanzas, of course, were used from time to time, as in "Colorado Home," to describe special localities. But the tendency was from the particular to the general. In Lomax's version, which follows, all references to Beaver creek and the Solomon river are gone. It is true that there is a new stanza referring to the Red river but it is likely this was a stray or a maverick, favored by the Negro singer who had picked it up on the Chisholm trail.

The only fundamental change was that the first line of the chorus had become two lines

Home, home on the range,
Where the deer and the antelope play

instead of

A home, a home where the deer and the antelope play.

Lomax's version, as printed in the 1925 edition of his *Cowboy Songs*, is as follows:

Oh, give me a home where the buffalo roam,
Where the deer and the antelope play,
Where seldom is heard a discouraging word
And the skies are not cloudy all day.

Home, home on the range,
Where the deer and the antelope play;
Where seldom is heard a discouraging word
And the skies are not cloudy all day.

Where the air is so pure, the zephyrs so free,
The breezes so balmy and light,
That I would not exchange my home on the range
For all of the cities so bright,

The red man was pressed from this part of the West,
He's likely no more to return
To the banks of Red River where seldom if ever
Their flickering camp-fires burn.

How often at night when the heavens are bright
With the light from the glittering stars,
Have I stood here amazed and asked as I gazed
If their glory exceeds that of ours.

Oh, I love these wild flowers in this dear land of ours,
 The curlew I love to hear scream,
 And I love the white rocks and the antelope flocks
 That graze on the mountain-tops green.

Oh, give me a land where the bright diamond sand
 Flows leisurely down the stream;
 Where the graceful white swan goes gliding along
 Like a maid in a heavenly dream.

Then I would not exchange my home on the range,
 Where the deer and the antelope play;
 Where seldom is heard a discouraging word
 And the skies are not cloudy all day.

Home, home on the range,
 Where the deer and the antelope play;
 Where seldom is heard a discouraging word
 And the skies are not cloudy all day.

All modern versions, published with and without credit in dozens of song collections, are based on the above original Lomax transcription. The song as we sing it and hear it today, however, is apt to be neither Higley's nor Lomax's. For some time a popular sheet music version has been Guion's arrangement published by Schirmer. The chorus is the same as the Lomax version, and the first, fourth, sixth and seventh stanzas are alike. The melody is also the same, except that Guion wrote a tune of his own for the stanza which begins "Oh, give me a land." This added melody has not met with any general acceptance.

Not all Kansans have approved the selection of "Home on the Range" as the official state song. Some say it is too mournful and others complain that it fails to "sell" the state and its products. In 1948 the Kansas Industrial Development Commission, apparently with singing commercials in mind, offered prizes for more up-to-date words. The following January, when Gov. Frank Carlson was inaugurated, these "snappier" verses were sung. Likewise, the music was jazzed to such a pitch that if the tune had been so played when first written all the deer and antelope would have been scared out of the country.

Following this indignity, an effort was made to persuade the 1949 legislature to supplant it with another song. It was even argued that Sigmund Spaeth was still right, that "Colorado Home" was the original and that the 1914 reprint and Moanfeldt's affidavits were not contemporaneous proof. This contention was disposed of by the discovery, already mentioned, that the State Historical Society possessed a copy of the Kirwin *Chief* for February 26, 1876, which contained a reprint of the original poem. When a photostat was sent to Spaeth he acknowledged that it settled any question of priority.

The public, however, needed no such proof. Letters to legislators and newspapers quickly indicated that "Home on the Range" was not a ballad to be tampered with. Although this protest may have been only a natural

reaction against singing commercials, it is more likely that the song expresses emotions which go deeper than a desire for bigger business. Somehow, out on the lonely prairie, an obscure poet and an unknown singer created an artistic paradox: A perfect blending of man's nostalgia for home with his dreams of some far-away and fairer land. This ambivalent masterpiece has turned out to be the ideal expression of the love which Kansans feel for their unpredictable state.

REPORT OF SAMUEL MOANFELDT OF HIS INVESTIGATION

To Music Publishers Protective Association :

My investigation concerning "HOME ON THE RANGE" commenced on or about the 15th day of February 1935. In the investigation, I concerned myself with establishing the following:

1. That the song "Home on the Range" was in public domain by reason of the fact that it had been known and sung generally throughout the country in 1885 or prior thereto.

2. To establish the author and composer of the words and tune of this song, if possible.

3. To find, if possible, some printed record, whether same be an original document, newspaper article or any book or song book, in which the song is mentioned, or in which the words of the song or music thereof were contained.

Prior to the investigation by me, the MPPA had collected quite a lot of general information concerning this song and among such information was some correspondence from a Mrs. Gideon of Chicago, who stated that while she attended the Stanberry Normal School in 1880, this song was regularly sung by the pupils of the school. In the same correspondence was mentioned names by classmates of Mrs. Gideon who might remember this song.

I therefore thought it best to start with this information and run it down. One of the persons who attended the Stanberry Normal School was a Professor Jordan of the University of Missouri, and my first stop was to see Professor Jordan, at his home at Columbia, Missouri. While Professor Jordan was absent, his sister, who was also a student at Stanberry Normal School, advised me to get in touch with Reverend Cleo M. Chilton, Minister of the First Christian Church of St. Joseph, Missouri. My next stop was to see Reverend Chilton, who after discussing this matter with me referred to Miss Mable White, who attended the Normal School between 1889 and 1891, and who was the principal of the Sherwood School at St. Joseph, and to a Mrs. Mattie C. Long, also of St. Joseph, Missouri. I interviewed both of these ladies and they advised me that while attending the Normal School prior to 1890, "Home on the Range" was generally sung at all the student gatherings and particularly every week when they had crescent society. That while they had no printed music or words, it seems that everybody knew the song and everybody joined in the singing of it. Both these ladies furnished written statements and stated that they had both recognized this tune when it was first heard over the radio, and that the words and tune were practically identical with the song that they knew at the Stanberry Normal School.

In order to show that this song was generally known and sung in various sections of the country and particularly in view of the fact that some people thought that this was a cowboy ballad, I directed myself to the cowboy country, and I went to Dodge City, Kansas. This city is known as cowboy country by reason of the fact that the Santa Fe and the Chisholm Trail meet there and it was a central shipping point for cattle coming from the southwest. There I interviewed a great number of people such as ex-cowboys, people who were employed as cooks in cowboy camps, ex-stage coach drivers and Buffalo hunters. A great number of written statements were procured by me from these people and they all agreed that this song was well known to and generally sung by cow-

boys and other people traveling through that section of the country in stage coaches prior to 1890, and that the lyrics and music were practically identical with those now generally used by radio singers and they all stated that they recognized the tune as soon as the same became popular over the radio.

The number of people who furnished such statements satisfied me that we would have sufficient proof for the purpose of defense of this suit to defeat the action even at this point, and my next step was directed to establishing the author or authors of the verses and music of "Home on the Range." In this connection, the story of "Colorado Home" which was published by Paull-Pioneer became of importance and I thought it best to really establish the facts contained in the purported letter containing the words of the song appearing in the publication "Colorado Home." I therefore went to Leadville, Colorado, which is three miles from Orro City, named as the locale where the writing of "Colorado Home" took place.

In Leadville, Colorado, I called on the editor of the local paper which is known as the Herald Democrat. After showing him the photographs appearing on the frontispiece of "Colorado Home" I asked him whether he could recognize Bob Swartz, who was supposed to be one of the writers of "Colorado Home." I also asked him whether he recognized any of the names of the co-authors who were mentioned as Bill McCabe and Bingham Graves and Jim. Mr. Butler, the editor of the paper, told me that he personally knew Bill McCabe and Bingham Graves and that several daughters of Bingham Graves still lived in Leadville. He thereupon directed me to the home of Mrs. Florence Edgington, who is one of the daughters of Bingham Graves, and after advising her of my purpose, she told me that her father had very often spoken of Bob Swartz, with whom he had done some prospecting, and that her father had sung "Home on the Range" as a lullaby to all of the children ever since she could remember, and that the words and tune, as she heard it on the radio are practically identical with the words and tune as sung by her father at or about 1895-6. That Bingham Graves died in 1921, that Jim referred to in the Colorado Home story was probably Jim Fouts, her uncle, and that this song was sung and played by her father and her uncle since she could remember. In going through her father's effects, a photograph was located on which appeared her father and Bob Swartz as a young man, and there could be no mistake but the photograph of one of the men appearing there was Bob Swartz. I also spoke to one of the other daughters, a Mrs. George Jacobs, and thereafter to a son of Bingham Graves, who lives at Long Beach, California. Both of them confirmed the story as given by their sister and they all signed statements stating that they will be ready to give whatever evidence they can and in whatever form necessary, should this become necessary.

To further confirm and prove that some of the lyrics, as used today were written in 1885, I endeavored to locate the mountain chain referred to in the letter of 1885, as mentioned in the story of "Colorado Home," and after some effort, a photograph was taken of the very mountains that appeared in the photograph on the frontispiece of "Colorado Home." This again corroborated the story of the writing of some of the verses now used in "Home on the Range" and which are contained in "Arizona Home," as copyrighted by the Goodwins in 1904 or 1905.

While at Leadville, I also interviewed a J. B. McDonald, who was at Leadville, Colorado since 1887 and he confirmed the fact that he knew Bill McCabe and Jim Fouts, and that these boys were mining partners and that Bill McCabe sometimes wrote for the Herald Democrat and that they all prospected in California Gulch, and that he often had heard the song then known as "Oh Give Me a Home Where the Buffalo Roam" as contained in "Colorado Home," sung in the various vaudeville places and beer saloons in Leadville on or about 1887. He particularly made mention of amusement places known as Ben Loeb and Mike Goldsmith's and that he distinctly remembers the song being sung by one Mike Whelan. He readily gave me a written statement, as did Mr. Butler, the editor of the local paper, to the effect that Bill McCabe was the sort of person who could write poetry and verse. A statement to the effect that he heard Jim

Fouts sing the version of the song as contained in "Colorado Home" since 1895 was given by one Jim Morrison, a personal friend of Jim Fouts, and to the effect that he also remembers distinctly that this was quite a favorite tune with him down to the time of the death of Jim Fouts. Jim Fouts was a friend of the family and Mrs. Morrison also stated in writing that she knew Jim Fouts since 1900 and that she heard him sing this song and play it on the mouth organ since 1900.

I also procured the death notices that appeared in the local papers when both Bingham Graves and Jim Fouts died, and Mr. Butler told me he attended the funeral of Bill McCabe, who died and was buried in Red Cliff, Colorado. That at the time of his death Bill McCabe was the editor of the Red Cliff Times.

As further proof that at least some of the verses that the Goodwins claim to have written could not have been written by them, but were probably written as stated in the letter appearing in the story of "Colorado Home," I tried to identify the places mentioned in some of the verses of the song. Of course the references made to the hills and the ring of the drills and silver ore in the ground, the gulches and the gold and the mountain streams, there could be no doubt that this was a perfect description of Colorado and particularly the section in and around Orro City and Leadville. This particular section produced the greatest amount of gold and silver and lead, at or about 1885, and the references to the gambling places and dance halls certainly refer to Leadville, Colorado, where one found them in great numbers, at or about the time when these verses were supposed to have been written.

In verse four of "Colorado Home" a reference is made to the Hot Springs below where the sick people go and camp on the Banks of the Grand. A great many people seem to have been under the impression that the Banks of the Grand meant the banks of the Rio Grande. This, I have found to be quite erroneous.

The Grand River referred to in the song is not the Rio Grande but the upper part of the Colorado River, which was always known as the Grand River and I procured an official map showing the name to be Grand River. Information came to me to the effect that the name of the Grand River was officially changed by Act of Congress in 1925 or thereabouts to Colorado River. The Hot Springs referred to in the verses probably referred to Glenwood Springs, located not many miles from Leadville, Colorado. The old timers in and about Leadville also inform me that deer and antelope and buffalo were plentiful in the section particularly in Park County, only ten or twelve miles from Leadville, Colorado, and that the state of Colorado has a game preserve at the present time in Park County.

The sister-in-law of Bingham Graves whom I visited at her home in Bisbee, Arizona, furnished a written statement that she came to Orro City in 1861 and she knew Bob Swartz, Bill McCabe and Bingham Graves, the latter having married her sister, Mary Fouts. That these three were inseparable companions and that they mined and prospected together. That Jim Fouts played the mouth organ, Graves played the banjo, and McCabe made up verses and once in a while worked as reporter on the Leadville paper. After being shown the photographs of Bob Swartz and one of the mountain scene, she stated that she absolutely recognizes Bob Swartz and also the cabin marked No. 1, as one occupied by the boys in the 1880's, and that it stood just outside of Leadville near Colorado Gulch, and that she remembers distinctly the boys singing and playing the lyrics, as appears in Paull-Pioneers version of "Colorado Home." That when hearing "Home on the Range" on the radio she often remarked that fact to her grandchildren.

While at Dodge City, several of the people I interviewed insisted that they had heard this song or some of the verses of it much prior to 1885, and one lady insisted that a great many more verses were known to her than what appears in "Colorado Home." She wrote out from memory her recollections of the verses she knew much prior to 1885. This definitely seemed to point out that the song was much older than 1885, that what probably happened was that the boys who wrote some of the verses that appeared in "Colorado Home" took an earlier song and added the verses to particularly fit their locality and condition.

I therefore began to search for the date of writing and the author of "Home on the Range." While at Dodge City, I became acquainted with one of the reporters of the Dodge City Globe and I thought it would be a great help if some item in their paper would advise the public that we are seeking information on "Home on the Range," and accordingly, a front page item appeared generally stating about the law suit and about the controversy. I arranged that any information received by the paper while I was away should be forwarded to me. This item, after it appeared in the Dodge City paper was reprinted in practically every paper in the country through the Associated Press, and a great deal of information started to come to me about this song. There is no use in going into detail concerning some of the information, but whatever seemed plausible was investigated by me, and many of them rejected, but in comparing notes and the information received, things began to definitely point to Kansas as the place where the song originated and an item appearing in the Kansas City Star written by a lady by the name of Myrtle Hose, gave the definite information that in her scrapbook she had a newspaper article that appeared in 1914 referring to another article that appeared in 1873 in a Kansas paper to the effect that "Home on the Range" appeared as a poem in that paper in 1873. This information came to me the latter part of March and I immediately procured the scrap book from Mrs. Hose and then proceeded to Smith Center and the office of the Smith County Pioneer, in which paper this article appeared in 1914, and in which previously to that, the poem appeared in 1873. I found that the poem had appeared in the issue of the Pioneer on February 19, 1914 and that the poem was reprinted from an issue of the same paper in 1873 and that the editor of the paper stated in this editorial that he had known the author of this poem to be Dr. B. Higley, who was an early settler in Smith County. A photostatic copy of the paper was procured as well as a photostatic copy of the page of the scrap book of Mrs. Hose, also a photostatic copy of the Kansas City Star of January 30, 1914, where this very same article also appeared. Both of these photostatic copies were procured from the original papers on file in the Kansas Historical Society at Topeka, Kansas, and were properly certified by the Society.

While at Smith Center, I interviewed a great many of the old pioneers who personally knew Dr. Higley and they all furnished affidavits to the effect that Dr. Higley wrote "Home on the Range" as a poem and that thereafter one Dan Kelley supplied the tune.

A Mr. Reese who now resides at Smith Center and who is one of the oldest pioneers in the section stated that he came to Smith Center in 1872, about one month before the town of Smith Center was established, that he came in contact with Dr. Bruce Higley, who had a homestead about twenty miles away on the banks of the Beaver, near the Solomon River, in June 1872, and that the occasion of their meeting was an indignation meeting against the Indians, and that he met the Doctor frequently between 1872 and 1873. That some time in 1873, his friend, John Champlin was accidentally shot in the foot and that he called on Dr. Higley, who treated him and that thereafter Dr. Higley called several times a week at their Doby or Dugout to treat the patient, and that he remembers distinctly on one of these occasions Dr. Higley, while treating the patient asked him to read a poem he had written. It was on a foolscap sheet of paper and the Doctor stated that he had written it to while away his lonesome hours spent in his log cabin. That this was "Home on the Range" as it is now known, and that they all insisted that the Doctor get somebody to write the tune. That thereafter Dan Kelley supplied the tune and the Harlan Bros. Orchestra played it on every occasion, settlers meetings, weddings, and all other celebrations and that he has heard it played and sung ever since. That he recognized the tune immediately, when it started to become popular on the radio.

A very interesting statement was furnished by one Clarence B. Harlan. Mr. Harlan was born in 1849, is now 86 years old, and came to Smith Center in 1871. He is the brotherinlaw of Dan Kelley, and his father was John C. Harlan, who was the first elected probate Judge of Smith County, and that the town of Harlan, Kansas, is named after him. About 1874 he played the guitar and his brother Eugene Harlan, who was ten years younger, played the violin. They composed

the Harlan orchestra which played all over the country at dances, reunions, parties and celebrations. That Dan Kelly, his brother-in-law, knew music and had a great voice and that among the songs they played was a song known then as "Western Home" which is now known as "Home on the Range." That he and his brother sang and played the song in 1874 and for many years thereafter. That he remembers the words perfectly and after being requested by me he brought out his guitar and played and sang this song from memory, using the tune as he knew it in 1874 and ever since, and as it was composed by his brother-in-law, Dan Kelley. I procured a recording machine and made phonograph records of this rendition of the song.

At this point, it is interesting to know that he followed the words as appeared in the paper in 1914, and that although Mr. Harlan sang this from memory he didn't miss a word. Mr. Harlan stated that the way the tune was made by Dan Kelley was that Dan tried several tunes to fit the words and after Mr. Harlan and his brother Eugene tried them on their instruments several were rejected until Dan captured the tune that is now used in "Home on the Range." That it was never written down but that he and his brother learned to play it on their instruments and after playing it at all celebrations and parties it began to spread all over and was the most popular tune and generally called for at all parties and celebrations. He stated that a great many people even thought that he was the writer of the poem and the tune and had written to him about it because of the fact that this song was so closely associated with him. He stated to me that he always advised these people that he was not the author of the song or tune and advised them who really was the author of same. Mr. Harlan is blind but I thought that it would be best to make phonograph records of his playing and singing of this song which I did, and the same are now in the possession of MPPA.

A great many other affidavits of old pioneers of the section were procured, all of which substantiate the story of the writing of the poem and the composition of the tune. Among those affidavits was one from the County Clerk of Smith County and one from the probate Judge of Smith County.

Several affidavits were also procured from old residents at Osborne, a town about twenty-eight miles distant from Smith Center and one of them from a Mrs. Parker who knew Dr. Higley and who advised me that Dr. Higley was the attending physician at the birth of her daughter, over sixty years ago, and that she knows that Dr. Higley was the author of "Home on the Range."

An interesting bit of evidence was procured from an adopted sister of Clarence B. Harlan, when I called on her at North Kansas City, Missouri. She found for me the very newspaper article which appeared in the scrapbook of Mrs. Hose and also brought out an old faded foolscap paper on which appeared the song which she called the "Western Home." She stated that she had sung and played this song a great many times with Clarence B. Harlan and that the song was very popular with them at their home since 1874. The words were written by her on this sheet of paper on May 20, 1884, the date when it was written having been placed on another sheet of paper dating back some years before 1884 but that it had become torn and dilapidated and that she had decided to re-write it on the sheet of paper handed to me when I called upon her. This original piece of evidence together with the newspaper clipping which was also saved by her are now in the possession of the MPPA.

I also visited Mrs. Anderson at Parkland, Pa. which is just outside of Philadelphia, who is a sister of Bob Swartz, one of the composers of "Colorado Home." I interviewed her husband and Mrs. Anderson and they stated to me that the letter referred to in the version of "Colorado Home" as appears in Paull-Pioneers publications was received by Mrs. Anderson in 1885 and she exhibited to me the original letter. The appearance of the letter certainly bears out the fact that it must have been written a very great many years ago. She also exhibited to me the original photograph appearing in Paull-Pioneers issue. In order to be able to get her deposition, it will be necessary to have Mr. Mayer communicate with her and advise her to give such testimony. In view of the fact

that she is so near New York, it might be advisable to have her deposition taken in New York City.

A great many letters have been received by me as a result of the newspaper articles appearing all over the country and as a result of letters to the editors which appeared in almost every paper in the United States, a great many letters were also received by the defendants in the suit as well as MPPA. All these letters are from people who know something about the song "Home on the Range" or "Western Home" and generally are to the effect that they either heard the song prior to 1900 or they themselves knew and sang the song much prior to that date. All generously offered to testify should same become necessary.

I communicated with most of these people and on account of the fact that the correspondence is so voluminous, I suggest that all the attorneys have access to the original letters and affidavits taken by me in the course of my investigation and that a conference be called by all the attorneys, and a decision should be made as to what depositions should be taken in this matter. With respect to those people whom I interviewed all over the country, I am in a position to give a lot of helpful suggestions at such a conference which would help determine which of these people should be brought on should a trial become necessary and the people whose depositions should be taken immediately because of age or other circumstances.

I also have made a great many friends all over the country who helped me locate the people from whom either statements or affidavits were received by me and I can also offer helpful suggestions with respect to the taking of depositions should such procedure be decided upon.

Your investigator also deemed it of importance to investigate the general history and background of the plaintiffs in this case and has gathered some very interesting information which, for certain reasons, he does not desire to include in this report but at a conference of attorneys, will be very glad to impart such information, but I can at this time state that I visited Tempe, Arizona, where the plaintiffs reside, and such information came from a reliable source.

A Mrs. Emmett residing in New York City communicated with the undersigned and she stated that she lived near Smith Center, Kansas in 1876 and that she has some knowledge of this song and would be ready and willing to testify should her testimony become necessary. She advised me that she will be in New York City until June 1st and then will go to Valley Cottage, New York, for the summer. If her testimony is desired I know where she can be reached in New York City.

Another gentleman of very high standing residing in Connecticut also communicated with me and indicated that he does not desire to have his name made public but would be very glad to have his deposition taken or testify at a trial and indicated that he would be glad to come to New York City to give such testimony.

I also communicated with Mrs. M. E. Harlan of Manhattan, Kansas, who is a widow of Eugene Harlan, a brother of Cal Harlan, and a brother-in-law of Dan Kelley, who is alleged to have composed the music for "Home on the Range" then known as "Western Home."

A reply was received from Hal E. Harlan, a son, who is now a practicing attorney in Manhattan, Kansas, and he states that his mother was one of the group who sang the song at the dances and celebrations at which the Harlan Orchestra played from 1878 to 1885, and that he personally was taught this song by his father as early as 1900. He also offered on behalf of his mother and himself to help in whatever way possible.

It is the opinion of your investigator that there is no basis whatever to the claims made by the Goodwins and that the plaintiffs in this case contributed nothing whatsoever either to the verse or tune of "Home on the Range" or "Western Home" as it was sometimes known.

Enclosed with each one of these reports you will find a newspaper article appearing in the Smith Center Pioneer on the occasion of my visit to that town and after my investigation therein had been completed, which newspaper in-

identally, is the newspaper in which the original "Home on the Range" appeared in 1873.

The term "Range" as used in the poem evidently refers to a division of land running north and south through the County being about six miles wide, all property descriptions of Smith County refer to the number of the range in which the property is located. Dr. Higley who received a homestead Patent from the United States Government to property in Smith County, received a Deed referring to the range in which this property is located. Annexed to this report is a copy of a blueprint of the engineer of Smith County showing that the county is divided into ranges, such ranges being indicated by the letter "R."

Respectfully submitted,

MAY, 1935

SAMUEL MOANFELDT

Vol. 1, No. 1, *Men Against The Frontier*, February, 1957:

Vol. 1, No. 2, *The Red Man Lives*, May, 1957:

Vol. 1, No. 3, *Buffalo: Lord of the Plains*, August, 1957:

Vol. 1, No. 4, *To Live in Symbols*, November, 1957:

Vol. 2, No. 1, *Trails of Steel*, February, 1958:

Neil Byer, "Trails of Steel."

U.P. Public Relations, "Condensed Sketch of Corporate History of Union Pacific."

John D. Cruise, "Early Days on the Union Pacific."

U.P. Public Relations, "Railroad Trials."

Adolph Roenigk, "Railroad Grading Among Indians."

Kansas Historical Quarterly (no author), "Along the Line of the Kansas Pacific Railway in Western Kansas in 1870."

Vol. 2, No. 2, *That a State Might Sing*, May, 1958:

Neil Byer, "That a State Might Sing."

Kirke Mechem, "The Story of Home on the Range."