HERALD OF FREEDOM.

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Poetry.

Apostrophe to Spring.

BY MISS M. M. DAVISON.

Bend down from thy chariot, O beautiful Spring!
Unfold like a standard thy radiant wing.
And beauty and joy in thy rosy path bring;
We long for thy coming, sweet goddess of love,
We watch for thy smiles in the pure sky above,
And we sigh for the time when the wood-bird shall sing,
And nature shall welcome thee, Beautiful Spring!

How the lone heart will bound when thy presence draws near,
As if borne from this world to some lovelier sphere,
How the fond soul to meet thee in rapture shall rise,
When thy first blush has tinted the earth and the skies.

O send thy soft breath on the icy-bound stream,
'Twill vanish, 'twill melt like the forms in a dream,
Released from the chain, like a child in its glee,
Twill flow on unbounded, unfettered and free,
'Twill leap on in joy, like a bird on the wing,
And hail thy sweet music, O, Beautiful Spring!

But tread with thy foot on the snow-covered plain,
And verdure and beauty shall smile in thy train,
But whisper one word with thy seraph-like voice,
And nature and earth shall rejoice, shall rejoice!

O Spring! lovely goddess, what form can compare
With thine, so resplendent, so glowing and fair;
What sunbeam so bright as thine own smiling eye,
From whose glance the dark spirit of winter doth fly?

A garland of roses is twined round thy brow,
Thy cheek with the pale blush of evening doth glow,
A mantle of green o'er thy soft form is spread,
And the light-winged zephyrs play round thy head.

While the thought of thy beauty inspireth my brain,
I shrink from the terrors of cold Winter's reign,
Methinks I behold thee, I hear thy soft voice,
And in fullness of heart I rejoice! I rejoice!
O could I but mount on the eagle's dark wing,
I'd rest ever beside thee, Spring! Beautiful Spring!

Written expressly for the Herald of Freedom:
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THE JAY-HAWKER;

A TALE OF SOUTHERN KANSAS.

BY P. P. FOWLER.

[*Continued.*]

The Court stamps its *physical* and reverend foot upon the puncheon floor. Cries of "stop him! put him down! hang him!" but, in spite of all this, you can hear the words of Barrow, as they slip through the confusion to the ear: "I swear I believe you made a trip here to see whose horses you could steal, dog-on'd of I don't think so."

The trial proceeds—closes; the proof against the prisoner is conclusive to the Court. Rev. Mr. Grabhorse pronounces the sentence: "You, Mr. Barrow, are fined $200; your claim and horses, harness, &c., are forfeited, and you are required to leave the Territory immediately."

Men are, by this tribunal, and its minions, arrested in the night, blindfolded, put in a wagon and carried, they know not where. It is dark, and we cannot see the trail. Threats are made to drive out every Pro-slavery man on the Osage. These threats reach the public ear; alarm becomes general, and look, there go thirty or forty families, leaving the Territory. They have hastily gathered up their household goods, and in great consternation are making all the headway they can, until they get beyond the reach of that power which they feel is meditating, and may accomplish their ruin.

Look again at the Court. An armed posse guard it night and day; why?

Look at that posse; Free State men they are called. Very good; but do you not see several of them who were actively engaged operating against Free State men in '56? And now they are among the most violent of that slavery hating posse who guard so vigilantly this Grabhorse tribunal. But the posse and the Court must be fed. Men cannot subsist on thin air. Doctors cannot live on their own medicine; nor can divines fatten like aldermen on devotion alone. Nature abhors a vacuum, and the empty stomach yearns for nutritious aliment.

The horses which bear the redoubtable posse must be fed, and corn is taken, on long credit, for their use, while hogs and cattle find themselves compelled to minister to the wants of his honor or his reverence, or their guards. The poor, pressed, unpaid-for quadrupeds, take a last, longing, lingering look at life; cast a hasty glance around the small circle of their fleeting joys, and then take their exit from the stage of life, and disappear piece meal through the hairy gateway between the stomach and the external world.

Another supposed culprit is before the Court; you see he is a feeble old man. It is not material what the accusation is against him. The Court, in the exercise of its great powers of discrimination, pronounce him innocent, and the prisoner takes his leave, and is on his return home. The alarmed and anxious wife looks for his coming; listens for the sound of his well know footsteps, but she looks and listens in vain. They have walked together, hand in hand, along the trail of life, for many years, in peace and security; but now he is gone, a fearful presentiment take possession of her mind, and she sinks upon a chair overwhelmed with painful emotions. The old man is nearing his home.

Look! an armed squad are pursuing him; they approach him; a few words are exchanged; hark! a report of fire-arms; the old man lies upon the ground convulsed with mental agony, and weltering in his own blood. Farewell, old man, thou dost greet thy faithful, fond old wife no more.

The country is in a blaze of excitement. Men fear that they are not secure.

Yonder are three men approaching the fort. They come near—are commanded to halt. They are met by a larger number of men from the fort, and a consultation takes place. The strangers wish to be assured that they will not be molested. They receive that assurance, and return.

Another day has dawned. A small posse from Fort Scott, led by the Marshal, who has writs to serve on several individuals connected with the court, make their appearance. They come near the fort—they hesitate, they halt.—The company at the fort prepare to receive them. The Marshal's posse will have to grapple with fearful odds. It is useless; they are not sufficient in numbers. They return to Fort Scott.

Another day. Another posse, in numbers more than forty men, approach the fort where the court holds its session.—They divide their force into four squads, and pass to their respective stations—east, west, north and south of the house.—One of the companies advance too near the fort, and the company who protect it commence firing upon them from the fort, some from a breastwork of logs near it, and others from behind trees. Many shots are exchanged, but the fort is strongly protected by logs and rails, and it cannot be taken. The Marshal's posse return without being able to make any arrests.

Once more they come—sixty strong—but the court is not in session; they have met elsewhere. The company which guarded them, have also gone.

Trouble in and around Fort Scott! trouble on the Marmiton! trouble on the Osage! These are expressions in every man's mouth. The people are alarmed. They fear, and not without reason, that their beautiful portion of the Territory is to be ruined by intestine war. A storm falls not upon one only. It is natural that such things should spread more rapidly than a prairie fire.

Excitement is intense; companies are being formed—secret organizations, it is said—for self defence. The members of those companies have signs, grips and passwords, known only to themselves. It is even said, by some, that those who do not join these secret combinations, cannot rely on them for protection. Do they know—does the world know that the best protection man ever enjoyed or ever will enjoy, is to be *let alone?* But these things are done by authority in part, and we wish to raise the inquiry, and will answer it in due time, by whose authority is all this done? Captain Corvus and his colleagues are certainly not the originators of all this commotion. He may be too willing to promote it, but he acts under the quasi authority of a commission, as well as from a spirit of revenge.

"He is a mere soldier, a mere tool, a kind
Of human sword in a fiend's hand, the other
Is master mover of his warlike puppet."

Who is it that sits behind this commission; that assumes this quasi authority; who is not seen to participate openly in the movement, yet counsels, directs and controls the whole matter? Who is he that sits behind the elements he has set in motion, as if a mere spectator of the drama, yet who is really its chief actor, and at his pleasure convulses a land which is resting in peace, and makes of the arena upon which stalk forth the hideous forms of rapine, murder and grim visaged war? Who is he? We shall see.

Correspondence of the *Gallinipper*:—

From our Special Correspondent.

DEAR GALLINIPPER:—Our court is now in session, and endeavoring to mete out equal and exact justice to all parties. We have had some very important and deeply interesting cases; one in particular, wherein the culprit was accused of talking bad to a woman who was stealing his pigs, by scattering corn on the ground and thus trailing them off. The culprit at first denied and then confessed his guilt. The proof was clear and conclusive, and the court decreed that he should forfeit his claim and span of horses, and leave the Territory.

This squatter court is a great, and greatly needed institution. We do not look upon the civil authorities here as capable of passing upon questions of such magnitude as the one just named, and it is therefore a matter of almost dire necessity to establish and maintain a competent tribunal to do justice in the premises.—Many of the people look upon us as meddlers in other people's matters, but that is of no account. We have a force in attendance sufficiently strong to protect the court in case of emergency, and also to procure all necessary supplies for the support of the court and its guard, and, also, for the animals upon which they ride. This calls for a good deal of pork and beef for the men, also much corn for the horses. We take such supplies wherever we can find them, and think our services to the public are an abundant equivalent. Besides, it is dull and short times at home, and all we can get here is, as it were, clear gain.

The *Gallinipper* gives great satisfaction to many people here. Its influence is evidently on the increase. We are taking measures to extend its circulation, and I confidently predict that as soon as warm weather comes, the country will swarm with *Gallinippers*. I shall labor to the end that they may suck the blood from the old fogy, anti-jay-hawking, "cellar kitchen" faction. That such may be the result, your friend and his followers will labor and "watch and *prey*."

GRABHORSE.

P. S. One important and grand result from the session of the court here is already apparent. More than forty families have taken the alarm and left the Territory, and many more are preparing to follow them. G.

CHAPTER IV.

Sly is not mistaken in his calculation. Wanton interference and aggression provoke reprisals; Free State people become alarmed at results for which a few of their leading men are responsible. The country is in commotion, and Captain Corvus and his boys are called on to visit the region of the Marmiton and restore order and confidence among the people, and contribute somewhat to the protection of one party at least. He responds with alacrity to the call. He has a strong band of well armed, hardy, resolute boys, not particularly scrupulous about perpetrating acts of aggression, and burning with hate towards everything which is, in popular parlance, called pro-slavery, especially if they have a plenty of provender, provisions, horses, mules hogs and cattle. It is hard, especially upon frozen ground, to go on foot; it is difficult fording streams, besides men make, in such condition, but slow progress. Men also, must be fed; they cannot live upon suction wholly, but must have prey as surely as the shark or tiger. They must have, at least, one meal a day. The beasts, also, which they ride, ought not to suffer the pangs of starvation. Now what shall be done? The poor patriots are not able, nor willing to go to war at their own charges. It would be a great burden, if not an impossibility, for the people who are anxious to enjoy their protection, to supply the wants of the men and their animals.

One step further and we have—"Boys we must take enough to supply our wants, Those who put us to the trouble must, also, bear the expenses of the war. So say you all." So say both parties, assuming that all this is justifiable, which admits of great doubt. How short and how easy, how much a matter of course is the transition from taking a sufficiency, to taking more than enough for their wants. How natural it is for a band of armed men, conscious that they are irresistible, free from the strong discipline of a well regulated camp, free from the restraints imposed upon lawlessness in well established and peaceful communities, influenced and encouraged by gray-headed old men, solemn-visaged divines, and deceived into the belief that they are doing right, fighting for liberty; how natural it is, and how long does it take, under the pressure of such circumstances, to go even beyond the bounds we first marked out for ourselves, and advance by little and little to the perpetration of those deeds at which we should at one time have revolted, and which would, in any well regulated community, have consigned us to the penitentiary.

But there is another thing which is almost a natural consequence of the former. Confederates, colleagues in crime or misdemeanor, when they have once entered upon and passed the moral rubicon, are unwilling to be taken, convicted and punished. They are all involved more or less in the same condemnation. They rank in the same category. By remaining banded together, they can protect each other, and every man's safety depends in a great measure on the assistance of his comrades. What marvel is it then under such circumstances, where such organizations have been gradually growing to maturity, that men become reckless, and perpetrate many outrages? Nor is it strange that leaders and their friends are eager to add to their numbers, to involve peaceful and unsuspecting individuals in the predicament with themselves. What then must be the result when by little and little two hostile parties become moved by the same or similar motives and impulses? Behold the result in the robbed and ruined families scattered here and there over a wide expanse of Territory. See hundreds of houseless, homeless wanderers as they now are, fearing and flying from a power which it is vain to resist, leaving their homes and everything they have to sustain life, and making their way into a border State, in order to enjoy that safety which they feel and know they cannot enjoy in the Territory. See them there, crawling into poor miserable old cabins, and remaining while the spring and summer wear away with no comfort or advantage to themselves. Will they not plot and execute terrible mischief?

Consider that this state of rapine and terror have continued for months, and what is the result? Hundreds of men have been obliged to leave; many of them are compelled to do so to save their lives. Thus the country is being rapidly depopulated.

Let us look at a few incidents by the way—a few only, for it is impossible to introduce here all the acts of all those apostles of the jay-hawking fraternity; nor should the reader expect too much in the unfolding of this our fanciful tale. Have you not already had the assurance that it is imaginative? Is it not freely admitted that the tale is sketchy at best? Suppose that you attempt to sketch a landscape and fail to diffuse over it due light and shade properly blended, and in just proportion, is there therefore no light, no shade, no landscape?

Here are two men intently engaged in conversation, so much so that they heed not our approach. Suppose we jay-hawk a little of their conversation. It is no unimportant subject upon which they converse. It involves the peace and security of a large region in the Territory.

"I tell you, Mr. John, that I have just received a letter containing the information that a large body of men are coming in to sweep the whole country along the Osage. I am going to the Kansas river to see the General, and get men and arms in order to repel invasion."

"I, also, Mr. Dane, have business there, for a similar purpose. The case is this: I bought the goods in a certain store on credit—got them cheap. The man who sold them to me is pro-slavery, and was afraid. Well, I commenced trade. I did not pay the old varmint according to agreement, and he has come in and taken the goods back to get his pay, and I may say, has taken, also, from me, five horses and eighty dollars in money. You see I am completely robbed of every thing by this pro-slavery scoundrel. I am bound now to raise the wind."

"Well, as our business amounts to the same thing, let us go North together, and consult at head-quarters."

"Agreed; but before we get there let us call on some printer to issue circulars setting forth these facts—the particulars that you are robbed, and the things you have lost, also the fact, made known by the letter I have, touching the coming invasion."

"The idea is a good one. It will go like fire ahead of us and prepare our way. The people will be excited, and will not scrutinize very closely, and we can get all the men and arms that we want."

"Good! good! Let us hasten out the circular, with 'War in Kansas' at the head, and then we will go to head-quarters."

While those men are getting out their circulars, consulting at head-quarters and procuring men and munitions of war, the genius which presides over the unfolding of this, our tale, translates us to Missouri, to listen to a disclosure made there.

"Well, Captain Craft, you are recently from the Territory:"

"Yes, it was getting rather warm there."

"You ought to leave; Dane is making a fine use of the letter you sent him."

"Why, what use can he make of it?"

"He says it reports that the whole region of the Osage is to be invaded and swept by pro-slavery men."

"The d—d scoundrel. Does he say that?"

"He has raised that report."

"Well, if that is so, I will now tell the object of the letter. You know he leads free-State men, and I head a squad of pro-slavery. We are both inclined to jay-hawk pretty freely, and I wanted that he should not meddle with me or my property, and I would keep hands off him and his—a kind of let-one-another-alone arrangement while we jay-hawked others—he pouncing upon pro-slavery men, and I upon free-State men. As fair for one as the other, you know."

"But, Craft, do you pretend to say that such was the purport of the letter."

"I say it, and I swear that no man who can read can make anything else out of it."

"And he uses this to get up the impression that there is to be an invasion."

"It seems so."

We are once more in the Territory.

Here is a company of about thirty men. They are mostly on foot, and going South.

Here is, also, a small black-eyed man in the company, who is a wagoner, employed to go with them and carry their arms.—We recognize among them our old friends, Dane, Mr. John, Parson Grabhorse, and a stranger by the name of Hart, who seems to be a leader among them.

A little in the rear of this company, and trudging slowly along in the same direction, is a man walking alone. He has walked but a few miles, and yet he seems weary. He has fallen in the rear of the company; he is only a short distance behind them; he is lonely, foot-weary, and yet he toils along with indubitable resolution. Verily it is our quondam acquaintance and friend Gun. He of the Yorkshire dialect. He carries a small cannon on his back, and, although it is cold weather, he is covered with perspiration. There, he meets a brace of children, one of whom, a little girl, is crying and gnawing a piece of corn bread. He does *not* rob her of that bread. This Gun never performs feats of such thundering dimensions. Yet his mind towers aloft, and the thoughts of great achievements to be performed, the glory, the immortality that await him here below, sit firmly upon his brow. He is going "to shoot Fort Scott;" but hear him soliloquize.

"O! that I 'ad an 'orse or a *hass*, or a mongrel mixture of the two—a very little mule—that I might ride; and yet Washington, fired with patriotic ardor, suffered more, even, than I do now. Let me take courage from his illustrious example, and press on in the great work of 'uman rights. The patriot, the philanthropist must expect to endure much, and meet many hobstacles in the way of his progress. Let me emulate the zeal and devotion of the father of his country."

Potent and patriotic Gun! What philanthropy, what fortitude, what suffering! See the tears twinkle down his face—he is crying! Alas, foot-plodding patriot! It is night, and the company find entertainment in different houses on the way. Gun is the last arrival, and must of necessity lie on the puncheon floor. The bed is hard, the covering scant, for the night is cold. He tosses from side to side, and soliloquizes:

[*To be continued in our next.*]

For the Herald of Freedom.

New York Indian Lands.

WASHINGTON, March 22d, 1859.

ED. HERALD OF FREEDOM—DEAR SIR: Noticing, in your paper of the 12th inst., a few remarks in reference to the course pursued by Senators King and Seward, upon the bill opening the "New York Indian Lands" for settlement, I herewith inclose you the *Globe*, containing a copy of their remarks, as well as those of Senator Green. Please give them an insertion in your widely circulated paper, if possible, and let the people of Kansas judge for themselves, as to the extent and reality of Seward & Co.'s regard for their interests. The fact is made patent by this discussion, that nothing is desired by the ultras in reference to Kansas, except to keep her "bleeding" until 1860. And in this, are they not finding active co-workers in the persons of Conway, Lane & Co.? Are the masses of our Territory disposed to permit their higher pecuniary interests to be sacrificed upon the altar raised by these political agitators? Is Kansas ever to be kept as the arena of strife, rapine and bloodshed, merely to furnish capital for an outside party of greedy cormorants? It may be *sport* to a few, but to the laboring, hardy, honest pioneer, it is *death*. Is it not time that the people of Kansas should take the matter into their own hands, organize a party independent and above the dictation of all who, no matter what flag they may hoist, contemning and despising all law, seek only to keep up and continue agitation, that they may, perchance, gain a little notoriety or position thereby? But I notice the good work has already commenced there; the cloud which, now seen in the distant horizon, appears no larger than a man's hand, will soon have o'ershadowed the entire Territory, bringing with it, and dispensing to all the genial influences ever attendant upon an observance of law and order and a due regard for the rights and opinions of each other. Yours, &c.,

R. S. STEVENS.

Mr. SEBASTIAN. I move to take up bill (S. No. 389) providing for the allotment of lands to certain New York Indians, and for other purposes, in order to concur in the amendment of the House of Representatives.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House, which was, to strike out all after the word "Indian" in the sixth line, to the end of the bill, and insert new provisions, so as to make the bill read:

"That the President be, and he is hereby directed, as soon as practicable, to cause three hundred and twenty acres, or one-half section of land, to be set apart and allotted to each individual Indian *who* removed under the provisions of treaty hereinafter referred to, and to their children, in the tract of land set apart for the use of the New York Indians by the treaty of January 15, 1838, made and concluded at Buffalo Creek, in the State of New York, and the treaty made at the same place on the 20th day of May, 1842; said lands to be selected within said reserve in Kansas Territory, in conformity to the legal subdivisions of the public surveys, and so as to include the improvements (if any there be) of each Indian, and patents for the same shall be issued to each individual Indian adult, or to heads of families for themselves and their minor children, *they to locate their lands within the space of one year from the passage of this Act;* and when the location shall have been thus made and allotted, and after the expiration of said year, the remainder of the reserve shall be considered a part of the public lands, and shall be subject to settlement and entry as other lands belonging to the United States; *and no settlements*, other than by Indians above referred to, *shall be made on said reserve for the space of one year from and after the passage of this Act*, unless the selections can sooner be made. All settlements heretofore made on said reserve shall be recognized from the date of said settlement, and entitled to pre-emption, the same as if the said lands had been Government lands and subject to settlement: *Provided*, That *the Indians named shall have precedence over any other settler* where the same may come in conflict.—After paying all the moneys necessary for carrying out the provisions of this Act, the remainder of all moneys accruing from sales by pre-emption, private entry, or otherwise, of any lands within the tract and reserve above named, shall be paid into the Treasury of the United States, and kept as a separate and distinct fund, and held subject to any future acts of Congress in relation to said New York Indians, or to the provisions of any treaty made, or hereafter to be made, with said Indians, or any of them, in reference thereto. The district courts of the United States for the Territories of Kansas and Nebraska, shall severally hereafter, for the purpose of enforcing the Act of June 30, 1834, have the same jurisdiction as was conferred by the twenty-fourth section of the intercourse Act upon the United States courts of the State of Missouri; and that so much of the twenty-fourth section of the Act of June 30, 1834, known as the intercourse Act, as conflicts with this Act, be and the same is hereby repealed.

The bill, as passed by the Senate at the last session, is as follows:

Be it enacted, &c., That the President be, and he is hereby directed, as soon as practicable, to cause three hundred and twenty acres, or one-half section of land, to be set apart and allotted to each individual Indian entitled to lands in the tract set apart for the use of the New York Indians, *and now residing thereon*, by the treaty of January 15, 1838, made and concluded at Buffalo Creek, in the State of New York, and the treaty made at the same place on the 20th day of May, 1842; said lands to be selected with said reserve, in Kansas Territory, in conformity to the legal subdivisions of the public surveys, and so as to include the improvements (if any there be) of each Indian, and patents for the same shall be issued to the head of each family. When the selections shall have been thus made and allotted, the remainder of said reserve shall be considered a part of the public lands, and shall be subject to settlement, pre-emption, and entry, as other lands belonging to the United States."

Mr. KING. I move to amend the amendment by striking out all after the word "who," in the first line of the House amendment, and inserting:

"Is of or among the Indians and tribes provided for by the treaty of January 15, 1838, made and concluded at Buffalo Creek, in the State of New York, and the treaty made at the same place, May 20, 1842, and as soon as the $400,000 which it is provided by the fifteenth section of the said treaty shall be appropriated for aid by the United States in the removal of the said New York Indians, and for their support and benefit after removal shall be provided, the President shall appoint a commissioner to carry out the provisions of the treaty, *who shall appoint a suitable day and time within which the said New York Indians shall remove to the lands set apart for them* in accordance with the provisions of the said treaty, or forfeit their right to the lands, and of the day and time so appointed, immediate information shall be given to the said Indians by the President."

The bill which passed the Senate at the last session, passed without the knowledge of the Senators from New York, and went to the House of Representatives; and, as we understand it, it is a bill which assumes to forfeit the right of the Indians of our State, under the treaty which was made with them in 1838, at Buffalo Creek, which sets forth that the object of the treaty was to provide a home for the Indians, as was then the general policy of the country, in the West, and to remove them from the old States of the Union. The Indians of the State of New York, were the owners of a right to live with a band of western Indians; but, under the arrangement with the Federal Government, that was settled, so as to give them five hundred thousand acres of land, in the vicinity of Green Bay, Wisconsin. By 1838, the lands at Green Bay had become very valuable, and were wanted for settlement.—The same desire and purpose existed in New York, and the same policy received the favor of the Federal Government here, of a desire to send the Indians off, and, in 1838, a treaty was made with the various tribes of the New York Indians for the cession of the five hundred thousand acres at Green Bay, and they were awarded a large quantity of land in the Territory which was then known as the Indian Territory, and is now the Territory of Kansas—some one million eight hundred thousand acres, and it was set apart for them by metes and bounds. I will read the second article of the treaty;

"In consideration of the above cession and relinquishment on the part of the tribes of the New York Indians, and in order to manifest the deep interest of the United States in the future peace and prosperity of the New York Indians, the United States agree to set apart the following tracts of country, situated directly west of the State of Missouri, as a permanent home for all the New York Indians now residing in the State of New York, or in Wisconsin, or elsewhere in the United States, who have no permanent homes; which said country is described as follows, to wit: Beginning on the west line of the State of Missouri, at the north-east corner of the Cherokee tract, and running thence north along the west line of the State of Missouri, twenty-seven miles to the southerly line of the Miama lands; thence west so far as shall be necessary, by running a line at right angles, and parallel to the west line aforesaid, to the Osage lands, and then easterly along the Osage and Cherokee lands to the place of beginning; to include one million eight hundred and twenty-four thousand acres of land, being three hundred and twenty acres for each soul of said Indians, as their numbers are at present computed. To have and to hold the same in fee-simple to the said tribes or nations of Indians, by patent from the President of the United States, issued in conformity with the provisions of the third section of the Act entitled 'An Act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi,' approved the 28th day of May, 1830, with full power and authority in the said Indians to divide said lands among the different tribes, nations, or bands, in severalty, with the right to sell and convey to and from each other, under such laws and regulations as may be adopted by the respective tribes, acting by themselves, or by a general council of the said New York Indians, acting for all the tribes collectively. It is understood and agreed that the above described country is intended as a future home for the following tribes, to wit: The Senecas, Onondegas, Cayugas, Tuscarroas, Oneidas, St. Regis, Stockbridges, Munsees, and Brothertowns, residing in the State of New York; and the same is to be divided equally among them, according to their respective numbers, as mentioned in a schedule hereunto annexed."

The only question, perhaps, that should arise in this matter, is the question of whether the right of the Indians to these lands has, by any lapse of time, or any cause whatever, been affected or terminated. There are two or three delegations here at this time, protesting against this assumption made by such a provision as is contained in this bill, that their rights have ceased; for this bill assumes that the land is the property of the United States, instead of the Indians, and provides for its sale. The third article of the treaty is in these words:

"It is further agreed that such of the tribes of the New York Indians as do not accept and agree to remove to the country set apart for their new homes within five years, or such other time as the President may from time to time appoint, shall forfeit all interest in the lands, so set apart, to the United States."

The commissioner who negotiated the treaty is here in the city, and upon consultation with the Indians, and in my presence before the Committee on Indian Affairs, he states that it was declared to the Indians, that the object of the treaty was to secure them a home in the West; that the term of five years mentioned in the treaty as the time within which they should remove, was a time within which they desired to remove; but that the other words were also put in, "or such other time as the President from time to time may appoint," the object of which was, that the different members of the tribes might have an opportunity at a future day, within such limit as the President was willing that they should have, to remove to these lands. At the time the treaty was made, there was no difference of opinion anywhere, except among the Indians themselves, about the propriety of their removing. There was no interest among the whites in our State, so far as I know, except that which would be promoted by the removal of the Indians to the western country. This language was used and was explained to the Indians, that they might understand that, until the President appointed a time within which they must go to the West, their rights remained, and I believe there is now pending, in the Senate, a bill providing for the payment of money under the treaty with the Tonawandas, by which the right of the Indians to these lands has been recognized. Within a year or two a treaty has been made by which they have sold their rights and are to receive their pay for them; and thus, of course, their rights are extinguished. The Indians were informed that they would have ample time for this purpose, and have ample notice. There was great reluctance on their part to enter into this treaty; there was a reluctance on their part to leave the lands upon which they had forever resided—small reservations in different parts of the State of New York.—There is another article in the treaty, the fifteenth article, which I will read to the Senate, which was a part of this treaty, perfectly comprehended and understood by these Indians:

"The United States hereby agree that they will appropriate the sum of $400,000, to be applied from time to time, under the direction of the President of the United States, in such proportions as may be most for the interests of the said Indians, parties to this treaty, for the following purposes, to wit: to aid them in removing to their homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and in being taught to cultivate their lands; in erecting mills and other necessary houses; in purchasing domestic animals and farming utensils, and acquiring a knowledge of the mechanic arts."

Here is a provision of the treaty requiring that $400,000 should be expended to aid these Indians in their removal to the Western country, and purchasing domestic animals and agricultural implements for them in their new homes. This has never been done; there has never been any notice given to them of the intention of the United States to avail themselves of their authority in this treaty to terminate it, by fixing the time within which they must go, or forfeit their rights. The reason, as I understand, of the bill which has been presented to the Senate, is an urgency arising from the fact that the Indian lands in Kansas have been settled upon, and that difficulties have grown up among the settlers, settlements having been made there without any right on the part of those who have settled. There is a desire, of course, on the part of the Government, in the most peaceful and in the easiest and quietest manner, to dispose of the subject, and to give these lands to the white settlers who have settled on them.

Now, the fact is, I suppose that a very considerable number of the Indians would prefer to remain on their reservations which they still hold in the State of New York. In my judgment, the course pursued by the Government in their negotiations with the Tonawandas is the proper course to be pursued with all these tribes. There will be no difficulty in making a treaty with these Indians, by which all their lands in Kansas, that have been settled upon, may very readily be secured to the settlers; for there is no doubt that a sufficient number of the Indians will desire to remain in New York and to sell their lands in Kansas, to enable the Government to allow the right of pre-emption to pass to the persons who have settled there, and thus remove the difficulties. I understand that considerable improvements have been made; mills, in some places, have been erected, and in some instances two or three small towns have grown up on these lands. I have no disposition to disturb those people; but I am unwilling that a bill should pass by which it is assumed that the Indians have lost their rights to these lands. I desire that, through the Indian Department, negotiations may be instituted with these Indians, and their rights promoted in a manner that will save the faith, honor and credit of the Government. The Indians have no means of enforcing their rights; whatever course this Government may choose to take on this subject, is a course to which they can make no resistance.—Their only appeal is to the justice and to the honor and good faith of Congress.—These treaties were made between them and this Government as between equal parties, and the rights which are guaranteed to them by the treaties ought, in good faith, to be carried out. There is no necessity in this case, which should press this Government to do the slightest injustice to the Indians.

The amendment which I have offered contemplates the giving of notice by the President, and the use of those means which are provided by the treaty of 1838—the appointment of a commissioner to proceed to the Indians and open a negotiation with them; to give them a notice that, within such a time, they must go, or, if they do not, their rights will be forfeited; and that is in exact accordance with the terms of the treaty. I trust the amendment which I have offered, will prevail; and then I shall have no objection to the passage of the bill. If the amendment does not prevail, I hope the bill will not pass. The bill assumes to take these lands and sell them; but I will not discuss the merits of the bill, trusting that the amendment which I have offered, will prevail. It is a simple amendment which, within a reasonable time, a year or two, appointed by the President, can bring the rights of the Indians to a termination, and keep the faith of the Government.

Mr. GREEN. The Senator from New York does not present this case in the light in which I understand it. The treaty of 1838 provided a reservation for the New York Indians, on condition that they should remove to and occupy it, with a special provision that, if they did not, the rights of those who failed to go should be forfeited. The time was fixed; and the circumstances under which they were to remove were all specified. In 1846, the notice of the President was given that they must go, or lose their rights under the treaty. A considerable number of them did go, and are now occupying lands. The residue of them refused to go, and remained in the State of New York, where they are now. Since that period of time, the land then being considered worth comparatively nothing, the Territorial government has been organized; emigration has set in; settlements have dotted all over the lands which had been set apart for them, because they refused to go. This emigration has gone there since 1854.—The object of this bill, and the object of the House amendment to the Senate bill, is simply to secure in severalty all the rights of each Indian who, in virtue of the treaty, did in fact emigrate. That is the first object; to parcel out, and carve out, from the general mass, all the land granted to the whole tribe. It is to be protected from alienation; it is to be guarded to them, and to their heirs and descendants forever, without any authority to sell, unless with the sanction of the superior power, as provided in the treaty. The rest of the land being occupied, and the Indians in New York having forfeited their right, the bill does not propose to claim the benefit of a forfeiture; but it does propose, as they have failed to go, and citizens of the United States have gone, to avoid all difficulty, the United States will take the land, and pay $1 25 an acre, and put it into the Treasury as a special fund, subject to the disposition of Congress, for the benefit of these Indians. That is the whole purpose of the bill, and of the House amendment. It is fair; it is liberal. We could properly claim a forfeiture of the Indians; but a great nation like the United States would not ask any such thing of a poor Indian tribe; but we will not permit vast quantities of land to lie locked up from settlement, to mar the beauty of the Territory of Kansas; to stay the tide of emigration; and to check that improvement which is making the wilderness blossom as the rose.—We desire, on the contrary, to open it up to settlement; and especially when we can do all this without any harm to the Indians; without claiming an exaction that they have forfeited; without imposing on them any hardship; but simply doing justice, although they have failed to do their duty.

The amendment proposed by the Senator from New York is not just. If these Indians shall now go out under the extraordinary inducements which outside influences might bring to bear upon them at this time, when the lands are more valuable, they will interrupt the rights of others. Besides, the amendment proposes to give them another notice to go. They have had an express notice, as I have the information from the Indian department—and I speak by the record in this case, and do not guess at what I say. They had the notice in 1846—more than twelve years ago. During all that space of time, when the land was considered to be worth nothing, they refused to go. The other provisions of the treaty have been executed according to the letter. Then, why shall we now, to the injury of the citizens of the United States and to the injury of the Territory of Kansas, go back and permit outside influences to operate upon these New York Indians to induce them to go and grab lands to which they have no right; all the right to which they were entitled having been forfeited years ago; forfeited when the land was considered worth nothing; they remaining quiet under that forfeiture, but now asking to have the full benefit of the improvement of white settlements? The Indians have no right to ask it. I do not desire to see any hardships practiced towards the Indians. I want justice done to them in the fullest measure; but to pay them $1 25 an acre is doing full justice, while at the same time we subserve the general interest of the Federal Government.

Mr. KING. There is one point which the Senator from Missouri suggests in this case, which is unquestionably an important one; and if it could be fully sustained as he understands it to be, it might, perhaps, technically forfeit the rights of these Indians; but I call the attention of the Senate, and I desire them to look at this matter fairly, to see whether the view which he presents is the correct one. He states that these Indians have had the notice, and that their rights are forfeited. That is the question which we are to pass upon. I do not so understand; indeed, I understand it is not so at all. By the provisions of the treaty, by the communications made verbally and otherwise to the Indians, by the commissioners who negotiated it, by their universal understanding, they were to have this notice from time to time. This Government desires them to go West, and were anxious to induce them to go, and the $400,000 was to be used by this Government to aid them in going there. I suppose, at different times, those interested in the purchase of their land in New York, and others, have made efforts to get them to go. What I say is, that no such time as could fairly and properly be designated a notice to these Indians, that they must go or they would forfeit their rights, has been fixed. They have been requested to go, and have not all gone. Some have gone, and some have not; but there was no day appointed, in accordance with the requirements of the treaty, within which they must go or forfeit their rights, and therefore there has been no forfeiture, for the terms of the treaty in that respect have not been complied with. Nor was there any such intention in the efforts which have been made to induce them to remove. That conversational efforts have been made by parties interested in their lands in New York, is undoubtedly true; but that is not the notice of the treaty, by any means; nor is it the appointment of a day which shall terminate their rights under the treaty. No such day was ever appointed by the President, and that, I believe, is not assumed by the Senator from Missouri; at any rate, the Indians allege they had never had any such notice, and there is certainly no evidence here of its ever having been given; there is no proclamation of the President; there is no action of the President on the subject.

The treaty required that a day should be appointed by the President; and that not having been done, I say the rights of the Indians have not been terminated.—As to the mere matter of convenience of disposing of this question with these Indians, there is no doubt that treaties can be made with them. As I have said, within a year or two past, with one of these tribes a treaty has been made which is a perfect acknowledgment of the right of the Indians; and that tribe has sold its portion of the lands to the United States, and a bill was presented to us to-

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