

# SOUTHERN CITIZEN.

BY BENJAMIN SWAIM.

WHAT DO WE LIVE FOR, BUT TO IMPROVE OURSELVES AND BE USEFUL TO ONE ANOTHER?

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ASHBOROUGH, N. C. SATURDAY, APRIL 15, 1837.

[OF \$3 AFTER 6 MONTHS.]

**SOUTHERN CITIZEN,**  
By B. Swaim.  
Every Saturday Morning.

### TERMS.

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### Legal Department.

IGNORANCE OF THE LAW EXCUSES NO MAN.

### ASHBOROUGH, N. C.

Saturday, April 15, 1837.

To the Editor of the Southern Citizen.

Sir—Under the acts of Assembly of 1777 and 1782, it is unlawful for a man to fire the woods under a certain penalty. Suppose a man goes out into the woods hunting squirrels and his dog sees a squirrel, and he shoots at the squirrel in the tree, and by means of shooting at the squirrel, the woods gets on fire—is he liable to the penalty under the law?

H. MC.

### OPINION.

As the acts of Assembly above alluded to are short, and of importance to every citizen of the country, we here copy them, as they appear in the late revised code; not much, (though a little) altered from their original phraseology.

### AN ACT CONCERNING THE BURNING OF WOODS.

"1. *Be it enacted &c.* That it shall not be lawful for any person to set fire to any woods, except it be his own property, and in that case it shall not be lawful for him to set fire to his own woods, without first giving notice to all persons owning lands adjoining to said wood lands intended to be fired, at least two days before the time of setting such woods on fire, and also taking effectual care to extinguish such fire, before it shall reach any vacant or patented lands, contiguous or adjoining to such lands so fired.

2. Every free person offending against the provisions of this act, shall forfeit and pay for every such offence the sum of fifty dollars, to be recovered before any justice of the Peace, to the use of the person suing for the same, and shall also be further liable to the party injured by such unlawful firing of the woods, for all damages that may accrue therefrom.

3. If any slave shall violate this act, he shall on conviction before a single magistrate, receive thirty nine lashes, at the public whipping post."

We say without hesitation, the person firing the woods under the circumstances above mentioned is not liable to the penalty.

There never has been a critical adjudication of this point that we know of, but we think very clearly the general phraseology of the law goes to show that there must be an intent coupled with the act, before the penalty can be incurred. And what makes this construction the more evident, is the expression in the 1st or clause of the first section, "Wood lands intended to be fired" &c.

Shooting a squirrel is a lawful act,

perfectly innocent in itself; and if it accidentally causes the whole neighborhood to get burnt up, there is no criminality in the offence that can legally subject the offender to an indictment, or a penalty. It is not indictable because it does not come within any description of *Nuisance*, or *malicious mischief*. And it does not incur the penalty, because there were no wood lands intended to be fired.

When a man does an unlawful act, we mean an act *unlawful in itself*, and public mischief ensues, it is punishable by indictment. But for a mere accident, proceeding from a lawful act, let the mischief be ever so great, an indictment, or a suit for a penalty will not lie.

It may not be amiss to remark further, as we wish to give full satisfaction on this subject, (although this point of view is not embraced in the query,) that we have no doubt as to the liability of the squirrel hunter, above mentioned, so far as it is considered in a civil point of view. If he shot the game on another man's land, and thereby communicated fire to the woods, he is a civil trespasser; and a recovery may be had against him in an action of trespass by the owner of the land. If he did the act on his own land, and the fire spread therefrom, and injured a neighbor, the damage is *consequential*, and an *action on the case* may be sustained by the injured party. On this part of the subject, it is an ancient maxim, and a universal rule of law at the present day—"*Sic utere tuo, ut alienum non laedas.*" The sense of which may be familiarly expressed thus—"*Use your own as not to injure another.*"

### LIST OF ACTS.

Passed at the second Session of the Twenty-fourth Congress

An act making appropriations for the civil and diplomatic expenses of Government for the year 1837.

An act making appropriations for the current expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes for the year 1837.

An act to grant to the Atchafalaya Rail Road and Banking Company the right of way through the public roads of the United States.

Joint resolution granting a pension to Susan Decatur, widow of the late Stephen Decatur.

Joint resolution authorizing the Secretary of the Treasury to correct a clerical error in the award of the commissions under the treaty with France of 1831.

An act to amend the charter of the Potomac Fire Insurance Company of Georgetown.

An act to change the title of certain officers of the Navy.

An act further to amend the act incorporating the Chesapeake and Ohio Canal Company.

An act making appropriations for the naval service for the year 1837.

A joint resolution directing the prompt publication of the annual statement of commerce and navigation.

An act for the payment of horses and other property lost or destroyed in the military service of the United States.

An act making appropriations for the payment of revolutionary and other pensioners of the United States for 1837.

An act supplementary to the act entitled "An act establishing a Mint and regulating the coins of the United States."

An act for the relief of Robert Letcher and Thomas P. Moore.

An act to authorize certain rail road companies to construct rail roads thro' the public lands in the Territory of Florida.

An act making appropriations for the support of the Army for 1837.

An act to regulate in certain cases, the disposition of the proceeds of lands ceded by Indian tribes to the United States.

An act making an appropriation for the suppression of Indian hostilities.

An act to amend an act entitled "An act to establish branches of the Mint of the United States," passed the 3rd day of March, 1835.

An act to admit the State of Michigan into the Union upon an equal footing with the original States.

An act to extend the limits of the port of New Orleans.

An act to extend the jurisdiction of the District Court of the United States for the District of Arkansas.

An act to suspend certain provisions of "An act to alter and amend the several acts imposing duties on imports," approved the fourteenth day of July, 1832.

An act respecting discriminating duties upon Dutch and Belgian vessels and their cargoes.

An act making an additional appropriation for the suppression of Indian hostilities for the year 1837.

An act to provide for the support of the Military Academy of the United States for the year 1837.

An act to provide for certain harbors; and for the removal of obstructions in and at the mouth of certain rivers, and for other purposes, during the year 1837.

An act to provide for continuing the construction and repair of certain roads, and for other purposes, during the year 1837.

An act to authorize and sanction the sales of reserves provided for Creek Indians in the treaty of March 24, 1832, in certain cases, and for other purposes.

An act explanatory of the act entitled "An act granting half-pay to widows and orphans whose husbands and fathers have died of wounds received in the military service of the United States, and for other purposes."

An act making appropriations for building light-houses, light-boats, beacon lights, buoys, and dolphins for the year 1837.

An act supplementary to the act entitled "An act to amend the judicial system of the U. States."

An act to provide for the enlistment of boys for the naval service, and to extend the term of enlistment of seamen.

An act to authorize the Secretary of the Treasury to compromise the claim of the United States on the Alleghany Bank of Pennsylvania.

An act to extend for a longer period the several acts now in force for the relief of certain insolvent debtors of the United States.

An act for the appointment of commissioners to adjust the claims to reservations of land, under the 14th article of the treaty of 1830, with the Choctaw Indians.

An act to continue in force for a limited time the act entitled "An act to carry into effect a convention between the United States and Spain."

An act to continue the office of Commissioner of Pensions.

[And thirty-nine other acts of a private nature, generally for the relief of some single individual.]

### FROM FLORIDA.

### COPY OF THE TREATY OF PEACE.

From the Floridian—Extra.

Tallahassee, March 14, 1837.

The Government Express has just arrived from the late seat of war, bringing the welcome intelligence that peace has again been restored to Florida. We hasten to lay before the public the following official copy of the treaty of capitulation.

We are happy to learn that Governor Call will not, in consequence of this cheering intelligence, relax his vigilance in protecting the frontier. A strong cordon will be maintained until the last Indian is beyond our limits. Indeed, it is to be expected that a few desperadoes, and especially the Micauky band, will still hold out, notwithstanding the general capitulation of the nation. It is hoped that the counties, heretofore so prompt in the discharge of their duties, will forthwith furnish their quotas, and not leave a stain on their patriotism on the eve of a glorious termination of our difficulties.

### CAPITULATION

Of the Seminole nation of Indians and their allies, by Jumper, Holatoochee, or Davy, and Yaholoochee, representing the principal chief, Micanopy, and fully

empowered by him, entered into with Major General Thomas S. Jessup, commanding the United States forces in Florida, this sixth day of March, one thousand eight hundred and thirty-seven.

Article 1. The chiefs above named in behalf of themselves and the nation, agree that hostilities shall cease immediately, and shall not be resumed.

Article 2. They agree and bind themselves that the entire nation shall immediately emigrate to the country assigned them by the President of the United States, west of the Mississippi.

Article 3. Until they emigrate, they will place in the possession of the General commanding the troops, hostages for the faithful performance of their engagements.

Article 4. The Indians shall immediately withdraw to the south of Hillsborough. Those found north of that river, and a line drawn from Fort Foster due east from it to the ocean, without permission of the General commanding, after the 1st of April, will be considered hostile.

Article 5. Major General Jessup, in behalf of the United States, agrees that the Seminoles, and their allies who come in and emigrate to the West, shall be secure in their lives and property; that their negroes, their *bona fide* property, shall accompany them to the West, and that their cattle and ponies shall be paid for by the United States at a fair valuation.

Article 6. That the expenses of the movement West shall be paid by the United States.

Article 7. That the chiefs, warriors, and their families and negroes, shall be subsisted from the time they assemble in camp near Tampa Bay, until they arrive at their homes, west of the Mississippi, and twelve months thereafter, at the expense of the United States.

Article 8. The chiefs and warriors, with their families, will assemble in the camp to be designated by the commanding general, as soon as they can; and at all events by the 10th of April. Yaholoochee will come in at once with his people, and the other towns will follow as fast as possible.

Article 9. Transports will be ready to take the Indians with their negroes off to their Western homes.

Article 10. Micanopy will be one of the hostages. He is to visit the commanding general, and will remain near him until his people are ready to move.

Article 11. All the advantages secured to the Indians by the treaty of Payne's Landing, and not enumerated in the preceding articles, are hereby recognised and secured to them.

Signed at Camp Dade on the 6th of March, by General Jessup and four of the principal chiefs.

### EDITORIAL CONVENTION.

The late Editorial Convention in Kentucky has resulted in the adoption of some very wise regulations for the fraternity. If they are adhered to, we feel confident that the dignity of the press in that State will be greatly elevated, and the pecuniary condition of the craft considerably bettered. This last is a consummation of paramount importance.

The rules with regard to editorial controversies are very proper. It would be a great thing for the press, for the country, and for peace and quiet, if they were generally adopted and regarded. The following are some of the most important among the resolution:

### Richmond Compiler.

1st. That in all future discussions, whether political or otherwise, the editors of the Kentucky press shall carefully abstain from all disrespectful personal allusions or epithets towards each other; that they shall not name each other, or apply nick names, but shall conduct in all controversies between themselves with decency, decorum and moderation; and that it be also recommended to them to cultivate each other's good will and on all proper occasions to advance each other's interest.

2d. That they exact payment in advance in all instances for papers sent out of the State, after the 1st day of January next.

3d. That no more than twelve and a half per cent, be paid for collecting printer's accounts, and that it be recommended to all publishers in this State to employ the same travelling agent for collecting their accounts, so far as can be done without inconvenience.

4th. That every proprietor of a newspaper within the State engages to refuse employment to any apprentice (whether indentured or not,) who fails to comply with his engagements to his master, although he may have arrived to the age of twenty-one years.

5th. That all engagements of publishers with each other in relation to advertising, job work or subscriptions, be faithfully fulfilled, and that every infraction thereof be held dishonorable and degrading.

6th. That all transient or occasional job work or advertising be paid for in advance, or on the completion of the work.

7th. That if any editor shall forfeit his pledge, after agreeing to the foregoing conditions, he be recommended to discontinue all intercourse with him, either in the way of exchanging or advertising.

### PUBLIC SCHOOLS IN MASSACHUSETTS.

The following abstract of the School Returns, compiled for the Legislature of Massachusetts by the Secretary of the Commonwealth, shows the aggregate number of the several classes of Pupils and of Teachers, and the sums raised and expended for Education throughout the State:

Number of School districts from which returns have been received	2,517
Number of children between 4 and 16 years . . . . .	166,912
Number of male children attending school from 4 to 16 years of age . . . . .	75,552
Number of female children attending school from 4 to 16 years of age . . . . .	70,987
Number of male instructors . . . . .	2,154
Number of female instructors . . . . .	2,810
Average number of scholars attending academies and private schools . . . . .	28,753
Whole amount raised by tax for support of common schools, (including the preceding item) . . . . .	\$391,993
Amount raised by voluntary contributions to support common schools . . . . .	47,506
Estimated amount paid for tuition in private schools and academies . . . . .	326,643
Whole amount raised during the year, in 280 towns and cities, for support of common schools, and tuition in private schools and academies . . . . .	766,229

The Boston Courier adds, that there are sixteen towns from which no returns have been received; and ten from which the returns were not received within the time prescribed by the law, and which of course can receive no portion of the income of the school fund.

In Boston the average number of children attending common schools is 8,847; average attendance on private schools, 4,000; number of instructors of common schools, 144; amount raised by tax for support of common schools, \$88,000; amount (estimated) paid for tuition in private schools, \$100,000.

**Curious Annunciation.**—The Editor of a newspaper somewhere in the Hoosier State, makes the following announcement in his paper: "The Editor of this paper will preach in the Seminary on Sabbath next at 11 o'clock, A. M."—The man must not certainly have his portion of the ills that Editors generally fall heir to, or he would not be fit to preach; for a moiety of the vexations, disappointments, duns, &c. that generally fall to the lot of an Editor would make a preacher swear." An Editor, therefore ought not attempt to preach; he may pray if he chooses.

Lex. Reporter.

A woman may be of great assistance to her husband, in business, by wearing a cheerful smile continually upon her countenance. A man's perplexities and gloominess are increased a hundred fold when his better half moves about with a continual scowl upon her brow.

A pleasant cheerful wife is a rainbow set in the sky when her husband's mind is tossed with storms and tempests; but a dissatisfied and fearful wife, in the hour of trouble, is like one of those fiends who are appointed to torture lost spirits.