

SOUTHERN CITIZEN.

BY BENJAMIN SWAIM.

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

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By B. Swaim
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Legal Department

ISSUANCE OF THE LAW RECORDS TO DAY.

ASHBOROUGH, N. C.

Saturday, June 10, 1837.

DEBT OF THE WIFE, CONTRACTED BEFORE MARRIAGE.

B. SWAIM, Esq.
SIR: I send you a question of law; the answer to which, if you would deem useful, I should like to see in the "Citizen"—not otherwise.

Question. "A, a single woman, contracts an account with B, a merchant; and shortly afterwards intermarries with C; who, before two years expire, (from the date of the account) dies. Who does B look to for his money? In other words, is the estate of C liable?"

A SUBSCRIBER.
Answer. B must look to the widow of C, and no other person. The Executor or Administrator of C cannot be compelled to pay the debt.—See *Bees's Domestic Relations*, 126.

This, under some circumstances, might be considered a hard case; but not more so than another point of law we will here state in connexion with the subject, for the benefit of our patrons. Suppose the wife had died instead of the husband, the debt would be lost. Yes, even if he had acquired a great personal estate by her, if it was all reduced to his possession before her death.—See *1 Blackstone*, 413.

PATROL—NEGROES, &c.

MR. EDITOR:
I want you to give me the law in relation to Negro Meetings. I want to know if Patrollers have power to prevent a white man from holding a consultation with negroes on a private appointment, as a Class Meeting? I want you to write me a letter on the subject, or publish it in the "Citizen." I wish you also to state what kind of Meetings are unlawful? and how many white persons must be present to make them lawful, and put them out of the power of the Patrol?

ANSWER.

1. All meetings of Slaves are unlawful, whether for the purpose of Drinking, Dancing, or Religious exercise; and the patrol has power to disperse them; and even to whip them, (15 lashes,) provided they be off of their owner's premises without a written permission. If such Slaves be insolent or disorderly, the Patrol may give them any number of lashes, not exceeding 30.

2. If there be one or more white persons present at such meeting, it does not protect the Slaves; though the patrol cannot interfere with such white person or persons.

3. As for a white man's holding a meeting of Slaves, under pretence of Prayer Meetings or Class Meetings, Patrollers have no power to interfere

with him: they may however chastise the Slaves, as above stated, and cause them to go home. And it would be a circumstance strongly in favour of the white man in an indictment under the prohibition of our Act of Assembly of 1830, the 2nd Section of which is in the following words:

II. *Debit farther enacted.* That if any person shall by words endeavor to excite in any slave or slaves or free negro or person of colour a spirit of insurrection, conspiracy or rebellion, such person shall be deemed guilty of felony, and on conviction thereof in any court having cognizance thereof shall be sentenced to receive thirty-nine lashes upon his or her bare back and be imprisoned for a year; and for the second offence shall suffer death without benefit of clergy.

The foregoing answers embrace all the practical matter that occurs to us at present, from a review of the law compared with the Inquiry. The County Courts of this State are authorized to prescribe such rules as they may deem necessary for the observance of the several patrols, in order to preserve decorum among the Slave population.

ERASING THE NAME OF THE OBLIGOR.

MR. EDITOR:
A owes B by note or articles of agreement. Sometime afterwards it is discovered that there is a line drawn across the signature or name, unknown to A or B. Afterwards B requests payment from A, and A insists that he has paid it at a former period; and as a proof of the same, his name was obliterated by a line drawn across it; but makes no proof of payment. Shall this plea avoid it, in as much as it was done, unknown to both parties, by some scoundrel or perhaps by accident or design. Upon whom does the *onus probandi* lie? Is B under the necessity of making proof who did it, and what action must be brought to recover the money? The Editor will please answer this in the next number of the "Citizen."

A SUBSCRIBER.

Answer. The *onus probandi* (burthen of proof) lies on the plaintiff in this case. The erasure of the name of the obligor, is an alteration of the instrument in a material part; and consequently renders it utterly void, unless it can be satisfactorily explained by evidence; and this evidence must come from him who seeks the benefit of it.

As to the form of action,—it is *debt* by warrant returnable before a single Justice, unless the \$100 be due as a *forfeiture*, or *damages* for breach of covenant, or the like. For the proper distinctions between the cognizance of a Magistrate and that of a Court of Record, the proper way to fill civil warrants, &c.—see "Man of Business" vol. 1, 97, 107; vol. 2, 150.

TO THE VOTERS OF RANDOLPH COUNTY.

FRIENDS AND FELLOW CITIZENS:
The confidence which I cherish a disposition to repose in your good sense and sound judgement, in estimating men more by their real merit, than that superficial glare, which like the polish on base metals, shines only to deceive, has more emboldened me to announce myself as a candidate for your suffrages at the ensuing August Election, for the Office of Superior Court Judge.

Aware of the many difficulties, which must necessarily be encountered by a candidate for such an office, owing in a great measure to the too common, though dangerous, idea of church membership by lying, flattery, cheating, bribing,

and calumniating every other Candidate, which may chance to oppose his wishes, or to step in his way by offering his services in the same line to which he aspires; to which shameful resort, no man of suitable qualifications to fill any office of trust under our republican form of government, can consistently submit, I have entered the field with a firm and settled resolution—to attend to my own business, and let others attend to theirs; and to act entirely on the defensive side, should I happen to be assailed.

I am also aware that my limited acquaintance throughout a very considerable portion of the county, will materially operate against my interest; and in order as much as possible, to remove that difficulty, I have thought it proper to address the citizens generally, through the medium of a Circular Letter, in order that they may be the better prepared to judge rightly, with regard to my qualifications to take upon myself the responsibilities of the Office which I now humbly ask at your hands.

Another difficulty which seems to present itself as a barrier across my way, is the manifest disposition of some, though I cannot tell to what extent such an unwarranted prejudice may have prevailed, to curtail the rights & privileges of a class of individuals, as Citizens, and doom them to perpetual obscurity, merely because they happened to be so unfortunate, as to be born on the other side of a certain line enclosing a parcel of ground called *Randolph County*.

Now *Fellow Citizens*, as before stated, I am fully resolved not to be the aggressor, by advancing any thing that might tend to prejudice the people against either Candidate, or other individual; but from the hostile feelings recently expressed in a Circular address, towards myself, with a number more of my fellow citizens, who for both talent and integrity, are certainly entitled to our high respects, and to our patronage in whatever circle they might feel disposed to move; and as no other more talented individual has hitherto manifested a disposition to reply, I feel it my duty to try in my stammering way, to point out some of the injurious consequences which must eventually follow such a course of policy as is dictated in the Circular before alluded to; yet I must do the writer of that address the justice to say, that I wish to entertain a belief, that the offensive weapon was not cast with a premeditated or base design, to injure my interest, or the interest of any other particular individual, from any malicious motives; but I then thought, and I yet think, that those who advocate such policy as gives a preference to native citizens, to fill our public offices, to the exclusion of those who may have settled among us from other counties, although possessing talent and integrity, and bearing their equitable part in the public expenses, are actuated in rather too great a degree by selfish motives, without duly taking into consideration the different bearings such a rule, if carried out, might have on the interest of the community at large.

Born under the same climate, educated by the same teachers and upon the same principles, governed by the same laws, and in general actuated by the same motives; and prompted by the same interests; I must candidly acknowledge, that I have not penetration sufficient to enable me to discover why such distinction should not be entirely forgotten, and cease to exist; and happily for us, our equitable form of government knows no such distinction; but the only requisition to qualification for office in point of nativity, is, as it ought to be, that we are *Americans*.

Mankind are not all actuated by the same natural propensities; one has a peculiar inclination for agricultural pursuits—another for a mercantile course—a third is most in his natural latitude when in the performance of some mechanical operation—while one feels himself particularly delighted in laboring to become a distinguished politician—another enjoys a secret pleasure in studying the nature of the animal system. Thus we find that among mankind there is an almost endless variety of propensities; yet all constitute one community; and though each member has its particular office, yet they are all necessary, in order to form a perfect body.

Again we see, perhaps, an extensive variation in the properties of soil in different sections of the country, as there are dif-

ferent propensities in the inhabitants. In some parts we find a rich productive soil, well calculated for the encouragement of Agricultural pursuits, and to repay the farmer with a rich and abundant harvest; while in others we discover a soil so rough and mountainous as to render it entirely unfit for cultivation; yet possessing a salubrious climate, with sweet and wholesome water, and peculiarly adapted to the retired life of the Grazier, and the more adventurous pursuits of the Sportsman. And while the North is subjugated to a chilling atmosphere, occasioned by long protracted winters, the South is situated under the more virtical rays of the sun, and peculiarly fitting the productions of a warm climate: thus we find in the various productions of different sections of country, a variety of articles, such as the lumber produced from the forests of Maine, the bread-stuffs and fruits of the Middle States, and the Cotton, Rice, Sugar, and other luxuries peculiar to the South, which by mutual exchange, all contributing to the comfort and happiness of the community; but stop the current of interchange, and the disagreeable consequence attending such a measure, must be obvious to every impartial man.

Again, we see that water, that salutary contributory to animal existence when permitted to circulate in its proper channels, if confined and suffered to remain in a stagnant situation, soon becomes putrefied, and renders the surrounding atmosphere unwholesome, and actually obnoxious to human health.

Once more, if we examine the human or animal system, we discover an almost countless variety of parts, yet so completely organized as to render the reciprocation so indispensable, that the least discord in any of its members, ultimately disorders the whole system. It must then be at once admitted by all, that in every department of the Universe, unanimity and perfect concord in action, are indispensably necessary, not only for the promotion of its harmony, but also for its actual existence.

Thus we find that the produce of the Farmer, the commodities of the Merchant, the manufactures of the Mechanic, the legislation of the Statesman, the operation of the Surgeon, the pottage of the Sportsman, the lumber of Maine, the flour, apples and peaches of Pennsylvania, the cotton, rice, sugar, oranges and figs of Louisiana, though they are the peculiarities, properties and productions, of different sections of our common country, are all combined to promote our individual and national comfort and happiness; and that as a test of their utility, we are not compelled to enquire from whence they came, or whether they are the productions of Maine, of Georgia, of North Carolina, of Guilford or Randolph County; but whether they possess the necessary qualities.

Now in order further to prove the salutary influence of reciprocal interchange, and the injurious consequences of a contrary policy, it is only necessary to turn our attention to a few simple facts, which must without doubt, have fallen within the observation of every individual; for instance, and no doubt you have all observed it, one neighborhood will be burthened with Mechanics, while another is almost destitute; consequently the Mechanic must unavoidably incur a considerable expense in conveying his manufactures to other places, in order to dispose of them, and in lieu procure the necessaries of life; while the Farmer in a neighborhood destitute of Mechanics must labor under similar difficulties, in order to dispose of his surplus produce, which is necessary for the support of the mechanic, and to obtain the necessary articles of convenience, and in the event such policy ultimately terminates in a considerable loss to both Mechanic and Farmer.

In relation to this last position I would further remark, that I have not so soon forgotten the apparently pleasing sensation recently produced, by the prospect of obtaining some new mechanical establishments in this County, such as Printing Office, Book Bindry, Cotton Factory, Iron Foundry, &c. while it seems never to have occurred to the mind of those advocates for *nativity*, that several of the proprietors were natives of other Counties; but when *self-interest*, happens to be brought into competition; why then we at once remember that our opponent has not a *legitimate birthright* in Randolph County.

It will probably be admitted by the opposition with regard to Mechanics, Farmers, or whatever their vocation may be, that as such, we are willing whenever their services are needed, to encourage them by mutual or reciprocal interchange, to migrate and settle among us, to become citizens, furnish us with their production, and we in turn furnish them with such articles as we can spare.

To this I would reply, that as free agents, the All Wise has seen fit to endow us with a propensity to pursue that vocation or calling, which we think is calculated to promote our best interest, in connexion with our pleasure and happiness; and although we may have been Printers, Book-binders, Hatters or Constables; and although we may have been born in Guilford, Chatham, Orange, Moore, Montgomery or Davidson; yet, in my humble opinion these cannot with propriety be urged as justifiable reasons, why we should not become keepers of public Inns, and even Clerks of the County and Superior Court, Sheriffs, State's Attorneys, Clerk & Masters in Equity, County Trustees, and County Registers.

Now, as before stated, and I think satisfactorily proved, that measures calculated in any way, to disparage or check the healthful current of migration, would, like stagnant water, not only prove prejudicial to one, or to a few individuals; but the injurious effects consequent on such check, would extend through whole neighborhoods, and as a matter of course, through Counties, States, and even throughout the whole Union. It does therefore appear to me self-evident, that a policy based on such principles, must eventually prove injurious to the community, and ought to be discountenanced by every good citizen.

It may, perhaps, be further admitted by the advocates of *Native Claims*, that they do not wish to entirely prohibit natives of other Counties, who wish to come in among them and become citizens, from enjoying the rights of citizenship; but that they wish a participation in their "good things."

Now I must honestly confess, that to me it appears truly remarkable, that *impartial and judicious* men should in their zeal forget that our Legislature has wisely enacted that our public officers shall be elected by the *people*, and consequently from considerations of *merit*, and not from *selfish* motives.

It may be further said, that the injurious position I have been alluding to, was not taken with any selfish views, in order to influence the minds of the people in favor of native citizens.

To which I would reply, that if the subject was not intended to have an undue bearing, and to influence the minds of the people in favor of native citizens, why touch it at all, and why use it for electioneering purposes? I do really think that I would be considered prodigal, if on undertaking a piece of work, I should provide tools that I knew would be useless to myself, and at the same time highly culpable, if I knew they would be injurious to my neighbor, or were procured at his expense.

It may probably be said by some, that as the offensive weapon before alluded to, was not cast at me, nor by any of my competitors, and that as I have frankly acknowledged my belief that it was not with any premeditated design to particularly injure me, that it was not my business to interfere. In reply I would merely ask, whether, if a weapon be cast at an enemy, or into the air for mere sport regardless of consequences, and I should be in danger from the weapon, have I not an undoubted right to ward it off? I think this will not be denied. This is the ground on which I have been contending: if I have succeeded in removing the prejudice of any, I hope it will lend me their influence: if not, I hope what I have said will not prejudice any individual; confidently believing that you will duly weigh the matter, decide impartially, and give my remarks the attention they may merit.

Fellow Citizens, in tendering you my services, I make no pretensions to any claim on your suffrages, either from any superior qualifications on my part, or for any former services rendered; but should you be disposed to confide in me that trust which I now for the first time solicit, and which our Legislature has vested you with the disposal of, I feel confident that you will never find occasion to regret your course.