

SOUTHERN CITIZEN, & MAN OF BUSINESS.

BY BENJAMIN SWAIN.

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

VOLUME I—NUMBER 1.

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ASHBOROUGH, N. C. SATURDAY, DECEMBER 31, 1836.

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PROSPECTUS.

The *Southern Citizen and Man of Business*, is published weekly in the town of Ashborough, Randolph Co. N. C.

From mature reflection on the subject, and some consultation with men of experience, it is believed that, by connecting the ordinary variety of family News, with legal maxims, practical advice, approved forms &c. in the transaction of business—the publication may be rendered useful, and generally acceptable, at least to the citizens of this State.

It is difficult to enumerate beforehand, all the subjects that may be considered within the design of this paper; but among other things, due attention will be paid to Religion, Morality, Education, Politics, Agriculture, Commerce, &c. &c. together with the news of the day, foreign and domestic.

The business matter will be similar in character to that which appears in the 1st and 2nd vols. of the "Man of Business" and if necessary, some of the subjects there treated of, will be more fully explained.

In politics, this publication is pledged to no party. And it is hoped and believed that no improper prejudice will be indulged. All parties shall have fair play. Devoted only to the dictates of truth and sound policy, the liberty of the press, rightly understood, is to be fearlessly used; but with the strictest attention to chastity and decorum. In short, the editor promises without reserve, to render this publication, so far as possible, exactly such as every worthy citizen will take pleasure in introducing to the notice of his family and friends.

TERMS.

The *CITIZEN* will be issued every Saturday morning, on a fine Superfine sheet, at \$2.00 a annum in advance, or \$3.00 if not paid within three months from the date of the 1st issue.

Any subscriber may discontinue within the first three months of the publication.

Non-subscription to be discontinued till all arrears be paid, unless at the discretion of the editor.

All letters, communications, &c. to come post paid.

Advertisements inserted on the usual terms. BENJAMIN SWAIN, Ashborough, Randolph Co. N. C. December 1836.

Man of Business.

INDICANCE OF THE LAW SECURE TO MAN.

ASHBOROUGH, N. C. Saturday, Dec. 31, 1836.

Guilford Superior Court, 4th Monday after the 4th in September, his honor Judge SETTLE presiding: Chairman } Action of debt against & Justices } the Securities in a vs. } Bond for keeping a public bridge in repair.

If a bond be signed in the name of the obligor, but not in his hand writing, it must appear, that the signature was made, not only by his direction, but also in his presence. If done in the absence of the obligor, it must appear that it was done pursuant to a power of attorney under seal.

This was a penal bond; but the same doctrine applies to simple bonds for the payment of money as well as all other obligations under seal.

Sullivan vs. Parsons. Action of debt on Bond.

In this case, the defendant wrote the Bond, and signed it in the absence of the obligee (plaintiff, and delivered it to an agent, who after words delivered it to the obligee, [Sullivan]. Some time, perhaps a few weeks thereafter, an error was discovered in spelling the name of Sullivan—it was written "Solimon." In this dilemma, it was altered so as to read "Sullivan." The alteration was not made by Sullivan, but by a disinterested neighbor who happened there when the mistake was discovered, and in the absence of Parsons. The evidence, as to the part that Sullivan took in making the alteration, was, that he neither made it himself, nor proposed it; but that the man who did make it, suggested it, and took the bond, and altered it without further ceremony; and that in the presence of Sullivan.

These facts were all clearly proved, and the court, in charging the jury, told them that on this state

of fact, if they so found them) the bond was void.—Verdict for the defendant.

The case suggests two things to every man who does business, be it much or little: In the first place, be very cautious about making mistakes in the bonds and other obligatory writings you receive; and secondly, if a mistake be discovered after the business is done, be still more cautious in attempting to correct it without the knowledge and consent of all the parties interested.

Even if a witness should see a bond executed, and at another time and place, without the knowledge and consent of the obligor, should subscribe his name as a witness.—The bond is void. To tear off the name of a subscribing witness designedly, is also such an alteration of a bond as renders it void, unless the obligor has consented to the alteration.

The State vs. Indictment for assault and battery.

Defendant was a free negro.—The offence was clearly proven by the prosecutor (a white man)—The defendant then introduced a man of color as a witness in his behalf, to show that the transaction was altogether different from what had been stated by the prosecutor. The Solicitor General objected to this testimony and the objection was sustained by the Court. The disabling clause is found in an act of 1777, Ch. 115 Revised Code 300; and is in these words: "And provided also, that all Negroes, Indians, Mulattoes, and all persons of mixed blood, descended from Negroes and Indian ancestors to the fourth generation inclusive, (though one ancestor of each generation may have been a white person,) whether bond or free, shall be deemed and taken to be incapable in law to be witnesses in any case whatsoever, except against each other."

Query. Did the legislature intend to embrace any other class of cases, than those wherein a white man had, or might have, an immediate personal interest to be jeopardised by Negro testimony?

If the strictest construction that the words of the act will bear, be contended for, we are at a loss to see how a colored witness can ever be admitted in behalf of a colored defendant in a State prosecution, even if the witness on the part of the State be colored; for the act only admits them "against" each other, not "for," or against each other." Yet it has never been doubted, that a Negro defendant may legally introduce a Negro witness in his defence, when the charge is supported by Negro testimony. We think (with due submission however) that the only rational construction of the act is, that the word against has reference to the parties in the suit, and not to the witnesses; and that the prohibition was not intended to extend to cases of indictment; for in these, no white person has any direct interest. Let their testimony go for what it is worth—a Jury has to weigh its credibility.

A LESSON FOR JURORS.

The circumstances of this case have never before been in print, that we know of. They were related to us sometime since; and so well as we recollect, they are substantially as follows:

In the Superior Court of one of the Counties of this State (State Courts we remember right,) a man was put on trial for Burglary, on Wed-

nesday of the term. The facts of the case, as generally understood, had become so notorious, and were of a character so shocking, that it was with some difficulty that a jury could be made—so many of the citizens had disclaimed themselves by expressing opinions as to the guilt of the prisoner. While the Court was progressing, there was a man put on the jury, that was observed by the Judge, produced a sensible excitement among the people. At length, however, the Jury was made up, and the trial progressed.

The prosecutor was a man of standing in the County—good property and character. He stated that he lived alone; that on the night the offence was committed, he had gone to bed at the usual time—went to sleep. During the night he was awakened by a noise at the door, which was immediately broken open. That a man entered, and by the light of the Moon, he knew his person, and called him by name. That the Moon was at its largest, and shown full in the door; that he saw the assailant plainly—had no hesitation in saying it was the prisoner at the bar—that he had on a white hat—he thought he could not be mistaken in his person. That as soon as he announced the name, the prisoner rushed to the bed where he lay, and struck him with a club. Here his recollection failed, and he could remember nothing more, till next day, when he found himself surrounded by his friends, who had, as he supposed, found him in his suffering condition and were endeavoring to relieve him. That on making examination, his house had been plundered of about 400 dollars. The Judge remarked in this witness (and prosecutor) great caution, evident circumspection in his statements throughout the whole of his testimony. He seemed as if he would willingly favor the prisoner, if he had it in his power. Other corroborating circumstances were also proved, such as the prisoner's having been remarked to have more money about him after the robbery than before. His character, though not offered in evidence, was known to be unfavorable.

After the Jury had retired to make up their verdict, the Judge, prompted by a natural curiosity, inquired of a disinterested member of the Bar, why the ploring of a certain man on the Jury, produced such a perceptible sensation among the bye-standers. He was informed that the man was a School-master, whose private sentiment was generally known to be averse to capital punishment for any crime. In this case however, it was apparent that all expected a speedy conviction.

This was on Wednesday; and the jury disagreed eleven to one, and could make no verdict till Friday night. The majority had nearly lost all prospect of overcoming the obstinacy, as they thought it, of the School-master; though he in his turn, had labored hard to convince them that, under the circumstances, the prisoner was not sufficiently identified. He thought it impossible that the prosecutor should certainly know the person of the aggressor by Moon-light, being suddenly roused from sleep by his bursting into the house.

In this dilemma, the School-master proposed, and all readily agreed, to test the matter by an experiment. It so happened that the Moon was of about the same size and light, as when the offence was committed, and the Jury room was also a representation of the house that was burgled—A Jury

was to bed himself on a bench in a corner of the room corresponding with the location of the prosecutor's bed while the rest retired to rest in some one of their beds in the same menacing attitude as described by the evidence, to see whether or not the man within could instantly recognize the person of the aggressor, so as promptly to announce his name and the color of the hat. The experiment was tried round by each one in his turn. And out of twelve trials, but barely two announced correctly; and more than half the jurors were mistaken, even in the color of the hat. It need scarcely be added, that all the Jury now consented cheerfully to render a verdict of acquittal.

This verdict, it is said, gave much dissatisfaction for some time; but in less than two years thereafter, a negro man was executed in the County, for a capital offence, who, under the gallows, confessed himself guilty of this Burglary.

How much depends on a man's character! This prisoner would probably never have been even suspected, had he only supported a fair reputation among his neighbors.

MISCELLANEOUS.

POOR JACK.

The following account is given by the Rev. Leigh Richmond, as having been related by a minister in a meeting of the British and Foreign Bible Society:—

A drunkard was one day staggering in drink on the brink of the sea. His little son by him, three years of age, being very hungry, solicited him for something to eat. The miser's father conscious of his poverty, and of the criminal cause of it in a kind of rage occasioned by his intemperance and despair, hurled the little innocent into the sea and made off with himself.—The poor little sufferer, finding a floating plank by his side in the water, clung to it. The wind soon wafted him and the plank into the sea.

A British man of war, passing by, discovered the plank and child, and a sailor, at the risk of his own life, plunged into the sea, and brought him on board. He could inform them little more than that his name was Jack. They gave him the name of poor Jack. He grew up on board that man-of-war, behaved well, and gained the love of all the officers and men. He became an officer of the sick and wounded department. During an action of the late war, an aged man came under his care, nearly in a dying state.—He was all attention to the suffering stranger, but could not save his life.

The stranger was dying, and thus addressed the kind young officer, "For the great attention you have shown me, I give you this only treasure that I am possessed of [Presenting him with a Bible, bearing the stamp of the British and Foreign Bible Society.] It was given me by a lady, has been the means of my conversion and has been a great comfort to me. Read it, and it will lead you in the way you should go. He went on to confess the wickedness and profligacy of his life, before the recognition of his sinner, and among other particulars, how he once lost a little son, three years old into the sea, because he cried to him, he would bed him.

The young officer, moved at his tale, and placed the aged burglar, in his own house. A leader, judge, if you can, of the feelings, to

recognize in the dying old man, his father, dying a penitent under his care! And judge of the feelings of the dying penitent, to find that the same young stranger was his own son, the very son whom he had plunged into the sea; and had no idea but that he had immediately perished.—A description of their mutual feelings will not be attempted. The old man soon expired in the arms of his son. The latter left the service and became a pious preacher of the Gospel. On closing this story, the minister in the meeting of the Bible Society, bowed to the Chairman and said, "I am Poor Jack."

The following extract from a recent publication, by the venerable American Lexicographer, deserves the attention of the Public, and especially of the conductors of the Newspaper press.

The Press, when judiciously managed, is one of the greatest blessings of a civilized people; when abused, it is the most powerful instrument of mischief. Probably no civil privilege in this country is so much perverted and abused. In no country is reputation held so cheap. Slander, like the cry of death, levels all worth and distinction; the Press, one of the noblest instruments of improvement, is converted into an instrument of deception, and the means of making citizens hate and oppress each other. The moral effect of this abuse is lamentable; for it seems to have become a ruling belief of partisans that a man has a right to defame those who differ from him in opinion.

If such is to be permanently the effect of popular elections, we shall pay dear for the privilege in the loss of morals. At present, no reputation is safe, especially that of a man in public life, or one who appears before the public for the most laudable purpose. The scrambling for office keeps the public mind in continual agitation; generating evil passions and envenoms among citizens, who, even when they are wrong in their opinions, are entitled to the enjoyment of their reputation and their social rights. What a noble improvement in our public prints shall we witness, when facts shall be carefully collected, judiciously selected and fairly published, without conjectural inference; and when principles shall be discussed with ability and candor, without assailing character and manners.

NOAH WE'STER.

The duty of every one to aid in the preservation of a free Government.—If we are bound to protect our neighbour from violence,—to give him rainment when he is naked, or food when he is hungry, much more ought we to do our part towards the preservation of a free Government—the only basis on which the enjoyment of these blessings can securely rest.—He who delivers a nation from the yoke of a tyrant, in my opinion, the noblest monument of love, whilst he distributes the greatest blessing which man can receive from man. But next to that is the man who, in times like the present, watches over the safety of public liberty, repairs its foundations, strengthens its cement, when he holds it fast in his hands.

ROBERT HALL.

REPORT OF THE COMMISSIONERS THE REGULATION THE CAPITAL OF THE STATE OF NORTH CAROLINA. The Commission of the State of North Carolina, created by the act of the 20th of March 1836, to inquire into the expediency of a new system of taxation, and to report thereon to the next session of the General Assembly, have the honor to acknowledge the receipt of the report of the Hon. the Commissioners of the State of North Carolina, created by the act of the 20th of March 1836, to inquire into the expediency of a new system of taxation, and to report thereon to the next session of the General Assembly. The Commission of the State of North Carolina, created by the act of the 20th of March 1836, to inquire into the expediency of a new system of taxation, and to report thereon to the next session of the General Assembly, have the honor to acknowledge the receipt of the report of the Hon. the Commissioners of the State of North Carolina, created by the act of the 20th of March 1836, to inquire into the expediency of a new system of taxation, and to report thereon to the next session of the General Assembly.