



# THE SQUIRREL WHO TOOK ON THE GOVERNMENT

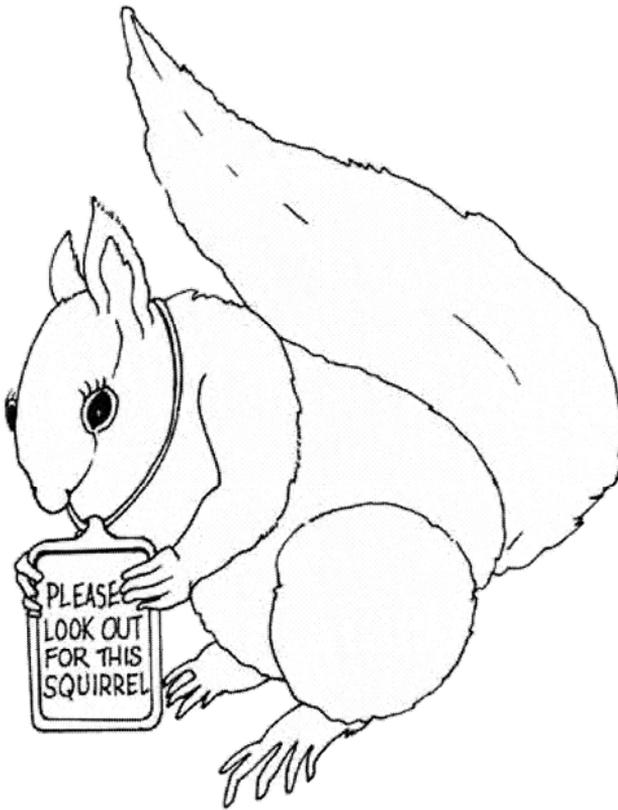
*Professor Bob Rains*

**O**NE FINE DAY years ago in South Carolina, a little girl squirrel fell out of a tree. Fortunately she was discovered by a nice lady named Barbara who took her in, nursed her back to health, and named her Nutkin. Barbara and her husband built a room-sized enclosure for Nutkin to romp in, and life was good.

For reasons we know not, Barbara, her husband, and Nutkin moved to Pennsylvania, and there their legal woes began. Barbara's husband had occasion to call the Pennsylvania Game Commission to complain about a deer hunter poaching on their property. A Wildlife Officer came out to investigate. However, he really didn't care about deer poaching. Instead, the Wildlife Officer became upset when he spotted Nutkin frolicking in her enclosure. He informed Barbara that it was a violation of the law to keep such a wild animal. He threatened to issue a criminal citation unless Barbara relinquished Nutkin to his control, which she loyally refused to do.

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As a result, the Wildlife Officer, as threatened, did issue Barbara a citation for the “unlawful taking or possession of wildlife.” Barbara was duly convicted of this crime by a district justice. She appealed and was again convicted by a trial judge, who imposed a sentence of a \$100 fine plus court costs. Barbara appealed yet again from the trial court’s decree.

The appellate court examined Nutkin’s case with care and sympathy. Nutkin was by now well on in years, squirrel years anyway. It would be cruel, said the court, to turn her out into the world at her stage in life to fend for herself. It would be like sending an old appellate judge back to the boiling cauldron of the trial court after being tamed by years of peace and quiet above the fray.

## *The Squirrel*

Turning from whimsy to the law, the appellate court parsed the Pennsylvania statute prohibiting the unlawful taking and possession of wildlife, and found a loophole big enough to accommodate Nutkin. While it was true that it would have been unlawful to have taken Nutkin from the wild in Pennsylvania and domesticated her, such actions were lawful in South Carolina where they had occurred. Since Barbara had already possessed Nutkin legally before they came north, all was done in perfect harmony with Pennsylvania law. Thus did the appellate court quash Barbara's conviction for giving Nutkin a happy home. Barbara and Nutkin can live happily ever after, free of the tyranny of the Pennsylvania Game Commission.

### MORAL

*The Pennsylvania Game Commission  
Was ill advised to hurl  
The book at a "matrician"  
Who saved an orphan squirrel.*

