SOUTHERN CITIZEN.

BY BENJAMIN SWAIM. *WHAT DO WE LIVE FOR, BUT TO IMPROVE OURSELVES AND BE USEFUL TO ONE ANOTHER?* VOLUME I.—NUMBER 15.

TERMS—$2 IN ADVANCE.] ASHBOROUGH, N. C. SATURDAY, APRIL 8, 1837. [OR $3 AFTER 8 MONTHS.

SOUTHERN CITIZEN,
By B. Swaim.
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TERMS.

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Legal Department.

IGNORANCE OF THE LAW EXCUSETH NO MAN.

ASHBOROUGH, N. C

Saturday, April 8, 1837.

RANDOLPH SUPERIOR COURT

Held last week—his Honor Judge Dick presiding.

H. B. Elliott assignee vs Samuel Smitherman } *Action on the case.*

The action was brought on the following Instrument of writing—not under seal.

"27th April, 1835,—Received of William Long a note on Cornelius Shield and William Carr for three hundred and fifty dollars; for which I am to give him two hundred and sixty-four dollars and twenty-five cents; and have paid him sixty-four dollars and twenty-five cents; and the two hundred dollars, I promise to pay said Long, whenever he calls for it.

(Signed)

SAMUEL SMITHERMAN.

(The defendant being dead, the suit was revived against his administrators, Noah Smitherman and H. Spencer.)

The instrument above set forth, had been endorsed to the plaintiff, Mr. Elliott, in the usual form, by William Long for a valuable consideration.

The defence was, in part, placed upon the ground, that the paper writing sued on, was not negotiable according to our act of Assembly, because it set forth, by way of memorandum the precise consideration, and was made payable to Wm. Long on demand of himself, and no body else. The court however over-ruled this objection, and the trial proceded.

The defendant then offered to prove that the Bond on Carr and Shield, which had been sold to Smitherman as the consideration of this note, was a *forgery*, and consequently there was no consideration to support the note of Smitherman to Long. But his Honor rejected the testimony, on the ground that the note was *negotiable*, and had actually been transferred by *endorsement:* Held that, in a suit between Smitherman and Long, the evidence would be admissible; but that it was otherwise between the present parties—the plaintiff being the *bona fide* and legal owner of the paper for a valuable consideration.

Defendant further alleged, that if the assignment made to the plaintiff was made by the same person to whom [illegible] gave the instrument [illegible] (which he did not admit) that that person [illegible] the name of William Long in the transaction with both plaintiff and defendant, when in fact that was not his true name; from a fraudulent intent; and that consequently the *assignment* was a forgery. And he was permitted to prove that the person who assigned to the plaintiff by the name of William Long, answered well to the discription of a man who had for a short time taken up, and kept a school in the county of Moore; that he there went by another name; but no proof could be had as to the discription of the man that took the note from Smitherman. So that this latter ground availed the defendant nothing. And under the charge of his Honor, the Jury returned a verdict for the plaintiff.

Jane Dawson (alias) Jones vs. Joshua Swaim } *Trespass.*

This was an action brought by the plaintiff, a woman of color, against her master to recover her freedom, alleging that she was the daughter of one Viney a Mulatto woman who lived and died in the county of Camden; that Viney was the daughter of one Polly Jones, a white woman of good family in the same county who left the child Viney with old Robert Carteret (or Cartwright,) and left the country with one Jarvis Jones; that on the death of Robert Carteret, his son Isaac took charge of her: that in process of time, after Viney had several children, Carteret sold to Robert Edney, who found it so difficult to remove the Negroes, that he exchanged them to Willis Sawyer, who afterwards sold the Plaintiff Jane to one William S. Hinton: that Mr. Hinton sold her to Mr Hogan of this county; whence, by a few more transfers, she passed to the present defendant Swaim.

The testimony produced by the plaintiff was satisfactory as to her genealogy back to Viney, a bright mulatto woman, described by the witnesses as having long, straight black hair, and freckle face. But whether this woman was the daughter of Polly Jones, a free white woman, there was no direct proof. The two main witnesses for the plaintiff (Thomas Creekmore and his sister Barbara Westmoreland,) Stated the fact on their examination in chief; but being cross examined, it appeared that they derived their impressions mostly, if not entirely from reputation. Keziah Whitehurst, in her deposition, also stated the fact that Viney, the mother of the plaintiff was the daughter of Polly Jones, a free white woman; but the defendant proved that this witness was told shortly before the deposition was taken, that if the plaintiff succeeded in establishing her freedom, and that of her children, she, the witness, should have one of the plaintiff's girls to wait on her as long as she lived. Plaintiff offered to prove the declaration of Elizabeth Creekmore, a very old woman who, many years ago, removed from that part of the country to this county, going to show that on her death bed, some twelve or fifteen years past, she declared what she knew of the plaintiff's pedigree. But this evidence was rejected by the court.—Plaintiff was also restrained from giving in evidence general report and reputation of her pedigree in the county she came from, and common report also as to her right to freedom.

The deposition of Owen Williams was read for the defendant; which stated that Jarvis Jones snr. sold Viney to old Robert Carteret; and then mentioned the several transfers nearly as set forth by the plaintiff. He states also that Jarvis Jones snr. died in that county; that he had a son by the name of Jarvis who went to the west; that this family of Joneses were respectable; and that he never heard any thing of any other man in that part of the country by the name of Jarvis Jones; nor had he ever heard any thing of a Polly Jones having a colored child: that he, witness, was 83 years old.—The testimony of this witness was in some degree corroborated by the depositions of John Cowen of Pasquotank, 66 years old; Thomas Bell, Nancy Burnham, Kelly Rhodes and John Spence of Camden; some of whom testify as to the bad character of plaintiff's witnesses, Creekmore and Westmoreland. The character and credibility of defendant's witnesses was supported by the deposition of Col. John Pool.

His Honor charged the Jury that the presumption of law was always against the freedom of a black person; but that where the person claiming to be free, was of mixed blood, of any shade between white and black, no presumption arose either way. And that consequently the case must turn upon the proof;—that in this case the burthen of proof lay upon the plaintiff, because the rules of law required the plaintiff to make out a case before the defendant could be required to make defence. And the Jury returned a verdict for the defendant.

The foregoing are the only cases of interest that were tried this term on the civil docket. The State's business took up two days (Monday and Thursday;) and the Solicitor General was quite successful in convicting. All the prosecutions were for minor offence—Assault, Battery &c. It is due to Mr. Poindexter to say—he prosecutes with a degree of energy and skill that not only does credit to him self as a public officer, but must operate with a salutary effect on the morals of the community.

The following gentlemen of the Bar attend this Court as practising Lawyers:

Hugh Waddell of Hillsborough,
P. H. Winston—Wadesborough.
J. M. Morehead and Ralph Gorrell—Greensborough.
Geo. C. Mendenhall and Wm. P Mendenhall, Guilford, near Jamestown.
J. S. Gutherie—Chatham.
J. H. Haughton—Pittsborough.
J. Worth, H. B. Elliott and B. Swaim—Ashborough.

MR. RENCHER'S CIRCULAR,

To the people of the tenth Congressional District of North Carolina.

WASHINGTON, *March* 10, 1837.

Fellow Citizens:

The constitutional term of the 24th Congress having expired, I feel it my duty, as usual, to submit for your consideration, a brief review of its proceedings. I shall begin with the

FINANCES.

The balance in the Treasury on the 1st of Jan. 1835, was	$8,892,885 42
The receipts during that year were, from customs,	19,391,310 59
From public lands,	14,757,600 75
From dividends and sales of United States bank stock,	569,80 82
From other sources,	711,894 94
Those, with the above balance make an aggregate of	44,322,945 82
The expenditures during the same year were	17,573,141 56
Leaving a balance in the Treasury on the 1st January 1836, of	26 749,803 96
The receipts into the Treasury during the year 1836, were, from customs,	23,409,940 57
From public lands,	24,877,179 86
From dividends and sales of United States bank stock,	328,674 67
From other sources,	301,311 83
Which, with the balances in the Treasury on the first of Jan. 1836, make an aggregate of	75,666,910 85
The expenditures for the year 1836 were	28,775,339 15
Leaving a balance in the Treasury on the first of Jan. 1837, of	47,891,581 70
To be distributed among the States according to the provisions of the deposite act of 1836,	37,468,859 97
Leaving a balance of	9,422,721 73
The receipts for the year 1837 may be estimated, from customs and public lands at	45,000,000,00
From proceeds of sale of U. S. bank stock authorized by the last session	7,500,000 00
Which, with the balance in the Treasury on the first of Jan. 1837, make an aggregate of	61,922,721 73
The expenditures for the same year may be estimated at	30,000,000.00
Leaving a balance in the Treasury on 1st Jan. 1838, of	$31,922,721 73

In looking at the expenditures of the Government, you must be struck with the great and alarming increase within the last four or five years. Under the administration of Mr. Adams, the expenses of this Government were, annually, about twelve millions of dollars. We thought it extravagant, and for that reason more than any other, was that administration put down by the people. Gen. Jackson came into office pledged to retrench the expenses of the Government; but, instead of retrenching them, they have doubled within the space of eight years! Not only have the number of officers been increased, but their salaries have been greatly augmented. These officers receive double as much as your State officers, and no reason could be assigned for the increase of their salaries, except to give a paramount influence to the Federal over the State Governments, and to give more patronage to those in power so as to enable them the better to reward partizans, and thereby more effectually control the freedom of our elections. But the extravagance of those in power is not confined to an increase in the number and salaries of officers, but is seen in the whole operation of the Government. Old things are done away, and new things have come to pass. Even our plain substantial public buildings are to be torn down to make place for more splendid edifices, constructed of more costly material and ornamented with marble statues, suited rather to a princely than a republican government. But this is not all. A fleet has been manned and equipped at great expense, not to protect your commerce, but to explore unknown seas in quest of unknown islands, and men employed only to make scientific research. I allude to this expedition, not only as a wastful expenditure of the public money, but as unauthorised by the constitution, and more objectionable than the astronomical observatories, recommended by Mr. Adams, and which were known and ridiculed in the cant languege of that day as "light houses in the skies." Large sums of money have been proposed to be expended upon new fortifications, and our standing army, in time of profound peace, is to be greatly augmented. Bills for both these purposes passed the Senate at its last session, but fortunately could not be acted on in our House for want of time, and were therefore lost. Such is the strong disposition manifested by those in power, to convert our plain republican government into one of extravagance and splendor; which, unless checked by the people, sooner or later must end in a military despotism. These measures were brought forward as party measures, and avowed to be such by those who supported them. As party measures they were intended to absorb the surplus revenue, rather than return that revenue to the people from whom it had been taken. This leads me to a consideration of the

DEPOSITE BILL.

Notwithstanding the large appropriations made during the first session of the last Congress, and the efforts on the part of the leading Van Buren men to make still larger appropriations, it was clearly ascertained, that owing to the extraordinary increase in the sales of the public lands, there would certainly be, at the end of the year 1837 a large surplus revenue in the Treasury of the United States. What was to be done with this large surplus was a question of the deepest moment to the people of the United States.

Those now in power, as I have before stated, wished to enlarge the expenditures of the Federal Government by increasing the Army and Navy, by constructing a large, and in my opinion, a useless number of new fortifications along our coast, by re-constructing in a more costly manner our public buildings, and by a large increase in the number and salaries of our public officers; while the opposion wished to provide for the necessary wants of the Government, but were opposed to any increase in its expenditures. They wished to return to the people such of the public revenue as might not be necessary for the ordinary wants of the Government, to be disposed of by them as they might think most likely to promote their interest. You know when the revenue of the United States is so large that it cannot be expended by the Federal Government, it remains in such of the State banks as the President may select, and is used by them for the benefit of the banks. You perceive, therefore, that this was partly a contest between the banks and the people; and resolved itself into this simple question, whether the banks should have the benefit of this surplus revenue, or whether the people should have their own money returned to them? But this was not the only question involved in this case. If this surplus revenue had remained in the deposite banks to be used by the Federal Government, it would necessarily have greatly enlarged the expenditures of that Government already double what it ought to be. This would greatly multiply the number of contracts and offices, and would give to the President of the United States a patronage and power over public sentiment, which it would be difficult to resist. Money is power; and the question was presented to the American people, whether they would place the whole of this tremendous power in the hands of the President of the United States, or whether they would divide it equitably among the States, to enable them to maintain their ancient freedom, independence and sovereignty. Fortunately for the people and the States, both these questions were decided in their favor at the first session of the last Congress, though not without a struggle. An act was passed to distribute among the States, in proportion to their respective number of Senators and Representatives in Congress, such surplus revenue as might be in the Treasury on the 1st of January, 1837, over and above five millions of dollars. The act provides that