

# SOUTHERN CITIZEN.

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

VOLUME III.

ASHEBORO, (N. C.) FRIDAY, AUGUST 2, 1839.

NUMBER 27.

PUBLISHED WEEKLY:

BY

BENJAMIN SWAIM.

TERMS

Two Dollars per annum, in advance, or Three Dollars, if not paid within three months from the date of the first number received.

A subscription to be discontinued till all arrearages be paid; unless at the discretion of the Editor.

Failure to order a discontinuance before the expiration of the subscription year, is equivalent to a new engagement.

All Letters, Communications, &c. to come post paid.

Prices for Advertising.

Advertisements will be conspicuously and handsomely inserted at \$1 00 per square of 10 lines; and 25 cents for every subsequent insertion.—No advertisement, however short, will be charged less than for a square.

Court Orders and judicial advertisements will be charged 25 percent higher; (we sometimes have to wait so long for the pay.)

Those who advertise by the year will entitle to a deduction of 33 per cent, provided they pay in advance.

## THE CITIZEN.

ASHEBORO, N. C.

TUESDAY, JULY 30, 1839.

ATTACHMENTS.

Questions. Is the assignment of a bond, by the obligee—a defendant in attachment, sufficient cause, why judgment should not be entered against the obligor—a garnishee, in favor of the plaintiff, in the same attachment? or is the bond's being due or not due at the time of the assignment, or the date the attachment, make any difference in this respect? or suppose the bond has been assigned; but left in the hands of an agent for collection, and one creditor garnishee the agent, and another creditor the obligor, which will have the preference? Are working tools, and other articles exempt from execution, be legally taken by attachment, when the defendant removes from one County to another? Should a note or bond, given by a garnishee, and condemned to the use of a plaintiff in attachment, be treated as money, or as personal property, obtaining final judgment.

A SUBSCRIBER.

Answer. Where the defendant in attachment has assigned a note or bond, cannot be reached by the plaintiff through garnishment, or any other way;—unless the assignment was fraudulent, or to the time when the bond became due, in reference to the date of the attachment, or the time of the assignment, makes no difference,—so the assignment was bona fide made before the attachment was served on the garnishee.

As to the preference between one creditor who has summoned the agent of a garnishee, and another who has summoned the obligor, we think the latter has it. Generally it is proper, and sometimes it is necessary, after summoning the agent, to summon also the obligor, before he can reach the debt. In all cases, we think, whoever can reach the first garnishment rendered from the real debtor, and all articles exempt from execution, are clearly subject to attachment.

Should a note or bond should be made when it is given up by the garnishee, in some degree depend on circumstances; but in ordinary cases we think the regular way is to discharge the garnishee, (the agent who gives the paper,) and proceed immediately against the obligor. And this

ought regularly to be done before conditional judgment is rendered, unless there is other property or effects levied on. The Justice may, however, postpone from time to time, after the return of the attachment, to give the plaintiff an opportunity of summoning other garnishees, discovered from the examination of those already brought forward.

### RELIGIOUS SOCIETIES.

Question. Where a neighborhood is destitute of a place for the public worship of God, and erects a stand or builds a meeting house, is there any way pointed out by law for the opening of roads to the same? and if so—what is the method to be pursued?

Answer. The Legislature of this State has never provided any method for opening new roads to places of worship. They must therefore be opened by the common consent of all persons interested, and not otherwise. After they are thus opened, the law protects them from obstructions.

In addition to what we have said above, it is proper to remark further that, according to the general law of the State, (without any reference to Religious Societies,) public roads and cart-ways may be laid off and opened by petition to the County Court. And by showing the necessity of these roads, they might be established without the consent of the owners of the land.

### COMMUNICATIONS.

FOR THE CITIZEN.

Chatham County, July 15, 1839.  
REVIEW OF MR. FISHER'S CIRCULAR.

No. II.

Mr. Editor: Having in my last communication, made some remarks upon a part of Mr. Fisher's circular, I will now resume the subject and take a hasty review of other parts of it. In speaking of the corruptions of the different branches of the Government, Mr. F. says that the "executive department can be reformed only by Congress," and adds, "but how can you expect the reform to take place when Congress stands so much in need of reform itself?" If this statement of the case be true, we are indeed in a sad dilemma; all the avenues to reform are heretically sealed, and all hopes of relief are cut off. But it seems to me that this is not the true view of the matter at all. I deny that the ax of reform must be laid at Congress alone, that body to be sure may effect a great deal in the work of reform whenever it has the will as well as the power, but the first step towards this is to turn out the friends of the administration, who acknowledge no rule of conduct but the will of the President, and who are opposed to reform and economy, and place those in power whose interest, as well as whose inclination, would lead them to this great work.— Now I would like to ask Mr. Fisher who is the master, and who the servant? the President or the majority in Congress? Does the Executive act in conformity to the will of his friends in Congress? or do they submit to his dictation? Does he know that the Executive will is almost supreme with a majority of that body? And does he not also know that this influence received a great impulse and got a firm foothold under the late administration by the frequent appointment to office of members of Congress? And are not members frequently encouraged to violate the known will of their constituents from the hope of reward? So much is this the case, that it has with great truth been remarked, "that those whom the people reject, the President is sure to appoint to office." Do not these facts plainly prove that the President has a great and alarming influence, which calls loudly upon every friend of his country to oppose?

Does not Mr. F. know that by means of the enormous patronage of the Exec-

utive, a secret and most corrupting influence is constantly at work? Nay, Mr. Fisher admits that the love of money is the root of all evil, and that it has corrupted the Executive Department in all its branches—it has corrupted Congress in all its legislation. Then we ask what is the remedy? The answer is plain. "Take away from the President the means of corruption, and the people's representatives can have no temptation to desert them." You must go to the fountain head of all these evils to correct them, you must first purify and reform that branch of the government which is the strongest and has most influence, and not begin after the Dutch mode, at the wrong end. I will next take up the Sub-Treasury. Upon this head it cannot be necessary to say much, as the subject has been properly noticed in the Citizen and Watchman already. I will therefore only say a word. Mr. Fisher says it is a Whig measure. Ah! a Whig measure! Really among the many strange statements in this gentleman's strange address, none is more so than this, and certainly none used more with the design to gull and deceive the people. But how does Mr. F. prove the Sub-Treasury to have been a Whig measure? by "Mr. Robertson of Va. a leading Whig of the House," moved a certain amendment "to the bill to regulate the deposits, &c. the effect of which was to dispense with the agency of Banks." Now I believe it is a well known fact and so understood at the time that this was a mere test question, designed to defeat the Bill to which it was offered as an amendment. But what does Mr. Fisher mean by calling this a Whig measure? Does he mean that in 1835 or at any other time before or since, the Whig party ever introduced the Sub-Treasury as their measure? Did the Whigs as a party ever propose it as their plan for keeping the money? Has the voice of any Whig in or out of Congress ever been heard in its defence? Have the leading Whig papers of the U. States ever advocated such a scheme? Has it in any manner or form been identified with the Whigs as a party?

The truth is the Sub-Treasury never was proposed by either party in Congress as a party measure, till the extra session of 1837, and then it was for the first time recommended to that body by Mr. Van Buren, and was accordingly presented to Congress in the form of a Bill by Mr. Wright in the Senate, and by Mr. Cambreling in the House, both leading members of Mr. Van Buren's administration, his confidential friends and advisers. The administration, then, are entitled to whatever honor and shame, to whatever of good or evil that is attached to the origin of this most dangerous measure. Mr. F. is either ignorant of these facts or he is not.— If the former, (which no one believes,) he is to be pitied, if the latter, he deserves the severest censure, for attempting to impose upon the credulity and ignorance of the people. But the gentleman means nothing by this except to show the inconsistency of parties. Really if Mr. F.'s account of himself and Congress be true, he is of all others the very man for a seat in Congress, for he would be a perfect saint among devils: free from all the frailties of our common nature, free from all unholy influences, free from what he says was contaminated, nay corrupted every one else! Well, now this is the very man for me, the man that is always consistent, frank, disinterested, and has no love of money, that root of all evil that has spread like the poison tree of Iva, its baneful influence over all the land. Mr. F.'s great objection to the Sub-Treasury is "the specie paying feature," remove this, then, and independent of the popular will on the subject, there is with him for aught that appears no objection to the plan. But I must dismiss this interesting subject, and take up one even more so, the next Presidential Election. "Truly one of the worst signs of the times is to make every thing turn on the Presidential question." So says Mr. Fisher. I must beg leave to differ with the gentleman *to a certain extent*, in existing circumstances of course, with one of the most distinguished and patriotic sons of Virginia, in believing that the "great question of National interest, which involves and absorbs all others,"

And I must say that truly one of the worst signs about Mr. Fisher, is this concealment of his opinions on this subject. But according to his doctrine it is a matter of very little moment who is his choice for this, of all others, the most important trust, he seems to think that it makes but very little difference who is President, and really complains that the people seem to take too much interest in what to him is a matter of minor concern. I have no doubt it is so. Mr. F. has much more concern about a seat in Congress than about the Presidency, and he would like very well no doubt, if he could persuade the people of this district to disregard for the present any considerations of that sort; and to look only to his promotion, and then they may think and talk about it as much as they please. But it won't do, Mr. Fisher. You can't persuade us that we have more interest in sending you to Congress than we have in the defeat of Mr. Van Buren, and the election of Mr. Clay. Nor can you induce us to waive our objections to you on that score. The Presidency first, Congress next. Principles first, then men. But Mr. F. says there is danger in making "every thing turn on the Presidential question." "If," says he, "the scheming politicians in Congress can manage to keep the people at loggerheads among themselves about the Presidency, then they are safe enough; they can go on with their extravagance without detection." Yes and if the scheming politicians out of Congress who want to get in can only persuade the people that the principles and opinions of a Candidate are to be disregarded, that they amount to nothing, they will have removed the greatest impediment to their political success. I suppose if Mr. F. were to get to Congress, he would take no part in the Presidential question, he would act as a watch upon the extravagance of Congress, his whole attention would be directed to money matters. I hope he would have charity enough to pay some little attention to the interest of the poor Choctaws. Mr. F. has given us notice that if elected he intends to go to Congress as the free representative of free men. No aspirant for the Presidential chair, shall have it in his power to point his finger at him as he walks by, and say "there goes my man." Charly! He has no idea of making a beast of himself by putting on the yoke, but means to be free of all restraint, to graze upon any land that suits him. I have no doubt the gentleman is perfectly sincere in this declaration, at least he, I verily believe, pretends going to Congress, free to do as he pleases, neither committed or identified with any party, or Presidential candidate. And so very fearful is he of doing wrong, so little confidence in himself, that he is apprehensive that he should disqualify himself from doing his duty faithfully to his constituents.— I suppose then that so soon as Mr. Fisher does enlist under the banner of any aspirant for the Presidency, he *ipso facto* disqualifies himself from acting faithfully to his constituents; and really he had well nigh proved it, for he shows very conclusively that his enlisting in one cause might be the very means of his being faithless to his constituents. If the Presidential election goes to the House of Representatives and Mr. F. a member, he says he will "vote for that man, be he who he may, that the people of North Carolina votes for." And what, fellow-citizens, are his reasons, for this anti-Republican doctrine? Why that the State gives but one vote, and therefore that he must vote according to the electoral vote of North Carolina. And is this the doctrine of an "old Fashioned Republican?" Let us look at it. It is well known that the State of North Carolina votes for a set of Electors for President and Vice President in each electoral district, and that the Electors of the successful ticket meet in the Electoral College and vote according to the voice of the People of the whole State, thus ascertained. The Constitution 12th Amendment provides "that the Electors shall meet in their respective States and vote by ballot for President and Vice President,"—and goes on to say that "they (the Electors) shall make distinct lists of all persons voted for as President and Vice President and the number of votes for each, which lists

they shall sign and certify and transmit, sealed, to the seat of Government of the United States, directed to the President of the Senate," and after prescribing the manner in which the votes shall be counted, declares "that the person having the greatest number of votes for President, provided they be a majority of the whole number of electors appointed, shall be President," and if no person have such majority, then the election is to be made "from the persons having the highest numbers, not exceeding three, on the list of those voted for as President," by the House of Representatives. "But in choosing the President the votes shall be taken by States, the representation from each State having one vote." This then is the clause upon which Mr. Fisher bases his doctrine. What is the meaning of the clause, the representation from each State shall have one vote. Does it mean that each member of the representation from each State shall vote precisely as all the other members from his State votes? How is this matter conducted? I am not mistaken the *modus operandi* is this, "the representation from each State," assemble together preparatory to going into the election in the House and make up their votes and determine that the majority of their colleagues shall cast the vote of the State. Or else they go into the House each member of the representation gives his vote, and the majority counts as the vote, and causes the vote of the State according.— Well, now suppose the delegation from this State assembled for the purpose of comparing their votes, the thirteen representatives six are in favor of and determine to vote for Mr. Van Buren, six for Mr. Clay. Mr. Fisher is the thirteenth man, (who, as he has no choice of his own, would doubtless be permitted to vote last,) he now has it in his power to carry the vote of the State, six districts in the State have sent Whigs to Congress who are the friends we will say of Mr. Clay, his own district is also decidedly in favor of Mr. Clay and opposed to Mr. Van Buren. Shall Mr. F. vote for Mr. Van Buren under these circumstances? Most assuredly not. Why! Because it is contrary to the will and wishes of his constituents that he should do so. But if his position be correct he must vote regardless of the will, nay of the express instructions of his constituents. Such doctrine is subversive of the very theory and ground-work of representation. The people, instead of Representatives, would, if it were practicable, go themselves to Congress but this in the nature of things being impossible they must, therefore, send their agents. But, to do what? To act, so far as their will is ascertained, (it matters not how,) precisely as they, the people, would act, if they themselves were personally present. How then in the case supposed would the people of the Tenth Congressional District vote? Would they vote for Mr. Van Buren? Mr. Fisher, and every other man in the District well knows they would not. He knows that there is a most overwhelming majority in this District opposed to the re-election of Mr. Van Buren. What then would he have to do with the electoral vote of the State? He would not vote as an elector, but in the capacity of a Representative, but of whom? Of the People of this District. But if Mr. Fisher should make up his mind to enlist under the banner of any aspirant to the Presidential chair, he would then according to his own account "disqualify" himself "from doing his duty faithfully to his constituents." He must therefore should the trial ever come be excused on this ground for misrepresenting his constituents. One more comment, Mr. Editor, and I shall have done. Mr. F. says Mr. Van Buren is not the President of a party. What does the gentleman mean in speaking on page 8 of his circular about the extravagances of the government when he says that the President ought to have called on his Party in Congress to resist these acts. Will he say in the face of this remark that Mr. Van Buren is not President of a party? Mr. Fisher is never unless a very consistent man. Upon the whole his circular is a most extraordinary production, a little sort of Van Buren and a little sort of Whig. It forcibly reminds me, Mr. Editor, of the