

COMMUNICATIONS

NATIONAL IMPROVEMENT—No. 11.

The Road from Washington to New-Orleans. This road should pass through the capitals of the Southern States, if it passes on this side of the mountains. It will be at least a more rapid road. From its direction it can have no commercial importance, at least in South Carolina. The whole commerce of this State, whether we regard the transportation of the produce of the soil to market, or of merchandise to its place of consumption, passes at present to the East. Nothing is so common as to see a wagon going from Camden to Camden, from Charleston to Columbia, or from Columbia to Charleston.

Small Fox. Messrs. Editors—For the information of the public concerning the character of the present prevailing Small Fox, please insert the following extracts from the recent work of Dr. L. Thomson, of Edinburgh, on the Varioloid, and you will confer a benefit on society. "Since the occurrence in June, 1818, of the Varioloid disease in Dr. Hemen's son, I have had occasion to attend to the appearances which this epidemic has produced in five hundred and fifty-six individuals.—Of this number, two hundred and fifty have been attacked by it, who had neither passed through small pox nor cow pox.—forty-one who had previously passed through small pox, and three hundred and ten who had undergone the process of vaccination." "Of these two hundred and fifty persons whom I have seen affected with the different forms of natural small pox, fifty have died, giving a proportion of death nearly as one in four, and affording an undoubted proof of the malignant nature of the present epidemic, in its unmodified state." "Besides the forty-one cases which I have myself seen, I have been informed of thirty other, in which the present epidemic has attacked those who had previously passed through small pox; and of this whole number, seventy-one, three have died; giving a proportion of deaths nearly as one in twenty-three."

Messrs. Editors: as health regulations and regulations are of recent date in Columbia, consequently the subject is comparatively new to most of the inhabitants; and as the measures to be resorted to for the preservation of public health, although salutary and essential, are often very rigorous and sometimes unavoidably oppressive on particular individuals, it is therefore of importance that the attention of our citizens should be early called to the subject; and we think an examination into the opinions of mankind and the practices which their wisdom has taught them to adopt in pure cities, towns and communities, will afford the best information concerning this matter. We therefore offer you for publication some extracts from the learned and celebrated Dr. Mead, of the early part of the last century, and also from a late review of a communication from Sir Arthur Brooks Falsgrave, late physician to his Majesty's forces, &c. in 1830, for stopping the progress of the plague and other contagious diseases when once introduced into a community. Dr. Mead says, "there ought, in the first place, a council of health to be established, consisting of some of the principal officers of state, both ecclesiastical and civil, some of the chief magistrates of the city, two or three physicians, &c. And this council should be invested with such powers, as might enable them to see all their order executed with impartial justice, and that no unnecessary hardships might be pre-acted without ever, but as far as possible by the officers they employ. "Instead of ignorant old women, who are generally appointed searchers in parishes to inquire what diseases people die of, that office should be committed to understanding and diligent men; whose business it should be, as soon as they find any have died after an uncommon manner, particularly with livid spots, bubo's or carbuncles, to give notice thereof to the council of health; who should immediately send skilful physicians to examine the suspected bodies, and to visit the houses in the neighbourhood, especially of the poorer sort, among whom this evil generally begins; And if upon their report it appears, that a pestilential distemper is broken out, they should without delay order all the families, in which the sickness is, to be removed; the sick to different places from the sound; but the houses for both should be three or four miles out of town; and the sound people should be stripped of all their clothes, and washed and shaved, before they go into their new lodgings.—These removals ought to be made in the night, when the streets are clear of people; which will prevent all danger of spreading the infection. And besides, all possible care should be taken to provide such means of conveyance for the sick, that they may receive no injury. "No manner of compassion and care should be wanting to the deceased; to whom, when lodged in clean and airy habitations, there would, with due caution, be no great danger in giving attention. All expenses should be paid by the public, and no charges ought to be thought great, which are counterbalanced with the saving a nation from the greatest calamities. Nor does it seem so great an unreasonable, that a reward should be given to the person, that makes the first discovery of infection in any place; since it is undeniable, that the making known the evil to those, who are provided with proper methods against it, is the first and main step towards the overcoming."

COMION LAW. FROM ROANE'S NEW YORK NATIONAL ADVOCATE. To Dr. Cooper, President of the South Carolina College. Although the revision of our statutes is but an embryo, it is that of one of the most noble improvements of the improving age, and will lead to the purifying our laws from absurdities, fictions and evasions which cannot be dispensed with for though we have judges and lawyers who have done honor to the profession, and are eminent instances of worth and integrity, it certainly was in a better school than the entries of Sir Edmund Saunders that their morals were formed. It would be for such as these to identify themselves with the honor and interest of their country existing behind them the prejudices of an age that is gone by. It is for every good citizen to join in the good work, for if we will help ourselves out of the mire, Hercules will not. It is vain to propagate alarms about pulling down and building up. We will rebuild what must pull down, and if there be words what better busy than pull them up. But they will grow again; No; ours may, in course of time, which will in their turn require to be pulled up. The housewife sweeps her house, the merchant posts his books, the good citizen pays his debts, and the pious man utters his prayers, though it must be done over again. The writer is not done justice to England when he says he sees nothing in the parliamentary proceedings, &c. Let us take care that while we lag and loiter, England does not, with all the additional weight she carries, bear off the prize. Your numbers in the Columbia Telescope gave some information upon that subject. Another eminent jurist, whose extended relations and enlightened views qualify him to pronounce, and who is no adulator of English government, thus speaks:—"This statute begins to show itself in the proposed revision of your code. In good hands; much may be expected from it. Even if indifferently executed, it will do some good. How far your revisors will venture to improve it, I have no data to judge from. Even Old England takes the lead, she shows her conservative wisdom by amending a governmental way what the people might otherwise demolish with a crash; even her colonial system is built anew; the Court of Chancery is exposed by authority to the gaze of criticism; her ancient criminal law is admitted to be defective; her bankrupt system altered; counsel will shortly be allowed in criminal cases to argue facts as well as law, she will probably do away her long list of constructive crimes and offences. It appears to me, from what I have read in the English publications, that the calmer men are run-

ing a race with the revision. Whichever they take, for the establishing an entire new system, but in stepping short there, he does not intend to alter, for he will take the law as it is, and in England in compliance with the public sentiment and in New-York in obedience to the public will. During the last session of the New-York legislature, a petition from certain inhabitants of Cayuga and Seneca, was presented, complaining in very strong and energetic terms of the grievances of the system and earnestly praying for relief, and senator Golden, chairman of the committee on the judiciary, in which it was referred, made a report, which was transmitted to the petitioners and the public, by which the petitioning revision of the statutory code, under the ample powers given to the committee of revision would do away with many of the defects, and tend to the reformation of the rest. My own opinion, which I always give with deference to able judgments, is that it will do so. Not that I think it possible to run any clear directing line between common law and statute law, so as to amend the one and leave the other untouched, but that this impossibility will be so apparent, when the subject is taken up, that however well the committee may execute their task, it will have to be begun again from necessity. The whole ground will have to be reconnoitred, a more accurate survey made, and a general plan laid down upon principles more extensive and more scientific, after which the work will proceed as all the great improvements do in this improving age, wisely and therefore fearlessly. It is that bewitching word the common law that still comes between us and our wits. The writer admits that codes may be very well made for the government of the army, the navy, for manumissions, or societies for particular objects, and that it may be well enough to digest the statute law now and then, because many of our statutes being of a local and occasional character, soon expire and become obsolete, and only serve to accumulate rubbish; but before a code of fixed principles could be introduced, mankind must be made of the same mind, to follow the same pursuits, to attend to the same objects, and be governed generally by the same rules of conduct. Before we think of digesting the common law so as to adapt it to all the complicated concerns of a whole people, it would be necessary to alter the condition of society and the very elements of human nature. If this be so, and truly I think it is, as the common law cannot be altered to suit the concerns of mankind without altering the elements as they are, and apply some other laws that can be made to suit. See how the arguments of our adversaries cross each other. One says that the genius of the common law is that of plastic accommodation—that its chief virtue is that it is in a constant state of change—that it is so supple and plastic in its nature, that it should be left to wind its sinuous folds through every accessible channel—so malleable, that it takes every shape that human concerns require—so liquid that it fills up every interstice like a grouting cement. Then comes another and tells that before it can be digested so as to adapt it to the concerns of a whole people the elements of human nature must be altered. The truth is on the side of the malleability. For if there can be any two things in nature diametrical to each other it is the common law, that is to say, the unwritten customs and usages of the Britons, Scots, Saxons, Angles, Saxons, Danes, and Anglo Normans, down to the Lion-hearted Crusader, since which time our books tell us there could be no common law, and our own customs, usages, laws and exigencies. But if it was otherwise why should we not be as well able to digest our laws into the form of a code as those ancient laws in any other country? Now, how can we be behind them. We are the children of the same God as they are. We are the Danes, or Edvard the Confessor, if it be, indeed, true that he ever did make any law? Did Theodosius, or Frederick, or Napoleon, or Solon alter the elements of human nature? or where was a code ever made that was an advantage to the people for whom it was made? These mystifying arguments are not suited to the genius of the age, still less of the country in which we live. The evil is felt, the people are determined, and he only will be entitled to their favor who honestly enters into their interests and aids them in their purpose. Men of knowledge and experience, and approved integrity, are necessary to this purpose, and I trust there are such amongst us, and that they will come forward, casting all idle and vain prejudices behind them; already the Saxon idols are overthrown. But a year or two ago the banner cry, strange to be told, but true and provable, was Edvard the Confessor, or our Saxon forefathers. Those phantoms of ancient superstition are vanished I trust forever, and the only question now amongst reasonable men is, whether we can attain the desired improvement speedily by digesting and revising our laws; and, by legislative authority, fixing what they are, or wait till a sufficient number of litigated cases may enable the judges in the last resort to liberalize, overrule, and new mould, by a series of arbitrary decisions and new constructions, the wisdom of their predecessors, which may not be far many centuries, and will bring little consolation and less honor to the present generation. But it will be observed that part of our law which has been enacted, by the judges, under the pretext of declaring the usages of our forefathers upon subjects where they could possibly have had none, which part is written in the reports of their decisions, and that part which has been enacted by the Legislature, and is written in the statute book, it is that the acts of the legislature are treated as the least positive of the two. Many of them have been borrowed from England, many of them passed at first, as it is said by St. Matthew Hale by men of letters or no judgment, and as any body may see in a jargon, such as there is no example of elsewhere. These naturally have undergone too many constructions that their present interpretation is as foreign from their text and original intent, as our common law is from the usages of our barbarous forefathers. They were all either declarations, derogations or amendatory of that common law in their origin, and cannot be separated from it at this day, being woven together into one piece, so that any new modelling of them without the rest of the system, is but putting new cloth into old garments, which men do not do. I shall in another communication notice the remainder of this article, which is but a summary of all that has been or I believe can be said against an entire textual code or digest of our law, and so far entitled to an answer, viz: The perishable quality of the Napoleon code; the concurrence of faith and reason, in approving of the common law, &c. &c. and in the meantime I remain with due consideration, yours, WILLIAM SAMPSON.

Female Society.—At no time of life, says Lord Bacon, "should a man give up the thought of enjoying the society of women—in youth they are our mistresses—at a riper age, our companions—old age our nurses—and in all ages, our friends."