For the Gazette of the United States.

MR. FENNO,

The following copy of an addreſs lately preſented to the Legiſlature of New-Jerſey, having accidentally fallen into my hands, and the ſubject being of general importance to the State, I take the liberty of tranſmitting it to you for publication in your Gazette

A JERSEYMAN.

IT is expected the Legiſlature will, this ſitting, be employed in the important buſineſs of reviſing and digeſting our code of Statute Law. As this work, if well executed, will be a credit to the State, as well as highly beneficial and convenient to individuals, it muſt be the ſincere wiſh of every good citizen, to ſee it completed as ſpeedily as poſſible. On a ſubject in which they are all ſo intimately concerned, every citizen of the State has an undoubted right to communicate his ſentiments freely to his fellow-citizens. I ſhall make no apology, therefore, for the freedom I now take in ſubmitting, with diffidence, a few deſultory obſervations on the ſubject, for the conſideration of the Legiſlature.

The execution of this buſineſs will conſiſt of two diſtinct parts. Firſt, In ſelecting ſuch Statutes or parts of Statutes of Great Britain or England as have been heretofore adopted as law in this State, or ſhall now be judged proper to be adopted, and enacting them into State Laws. Secondly, In reviſing, new modelling and digeſting all our acts, of a public and permanent nature, into one uniform ſyſtematic code. The former of theſe muſt firſt be completed, before the latter can be fully entered upon, as the new code, when finiſhed, muſt comprehend the whole.

There are very few Engliſh Statutes which do not contain ſome local, temporary, or circumſtantial matters, not admiſſible into our ſyſtem of *Statiſtical* juriſprudence; conſequently, very few or none of them can be wholly adopted, and of many not more than one or two ſections; all ſuch parts, therefore, of thoſe Statutes as conſiſt in *pari materia*, or relate to the ſame ſubject, may very properly be comprehended in one general Act. This will render the law more convenient, and be more readily underſtood, than it can be if detached in unconnected parts, as it now ſtands in the Britiſh Statute Books.—A maniſeſt advantage will alſo reſult from our adopting the phraſeology, or at leaſt the moſt material words, of thoſe Statutes, which are intended to be incorporated with our Legiſlative acts, as we ſhall thereby be enabled to avail ourſelves of the experience and judicial interpretation of the Engliſh Courts of Juſtice, in the application of thoſe laws to particular caſes in practice.

This part of the work will require leſs time and labour in its execution, than may ſeem neceſſary on a ſuperficial view of the ſubject. The number of Britiſh Statutes which can, with propriety, be adopted, in whole or in part, upon critical examination, will be found to be few, and not very difficult of arrangement. The following heads of Bills, with the references to the ſeveral Statutes from which they are to be compiled, will, perhaps, comprehend the moſt material ones.

1ſt. An Act concerning adminiſtrations, and the diſtribution of inteſtates eſtates; to be extracted from 31. E d. 3. c. 11. 21. H 8. c. 5. 22 & 23. Ch: 2. c. 10. 29. Ch. 2. c. 31. Ja: 2. c. 17. and three of our acts of Aſſembly, viz. The act reſpecting granting letters of Adminiſtration; An act making all *bona fide* acts of adminiſtration before notice of a will good; and an act diſpoſing of the ſurplus of perſonal eſtates of perſons dying inteſtate leaving no relations. All theſe may be conveniently comprehended in one law of a moderate length, and will compriſe our whole Statute law on this ſubject in one general act.

2d. An Act for the amendment of the law, and the better advancement of juſtice.—If the framer of any law ever deſerved to be immortalized for it by his countrymen, that great and good man who penned the Statute 4 and 5 Ann c. 16, certainly is entitled to it. Nearly the whole of this comprehenſive Statute may be adopted, together with detached paragraphs from ſundry other Statutes relating to the ſame beneficial objects; as 8 and 9, W 3. c: 11, concerning actions and covenants; 9 and 10. W 3. c: 15, making ſubmiſſions to arbitration a rule of Court; 17 Ch. 2. c: 8 and 8, and 9. W 3. c: 11, of the death of parties before final judgment, laying actions in their proper counties, &c. 7 Geo. 2. c. 20. for more eaſy redeeming &c. mortgages &c.

3d. An Act to remedy miſtakes omiſſions and defects in the form of proceedings in Courts of law. To an *Utopian* Legiſlator, unhackneyed in the acts of forenſic ſophiſtry and prevarication, this will appear uſeleſs, and much praiſe is due to the liberal and enlightened Judges of the preſent day, for the little countenance they ſhow to mere formal exceptions: But a proper attention to the hiſtory of law altercations, will, notwithſtanding, ſoon convince him of the neceſſity of this act. The Britiſh Statutes of *Amendments* and *Jeofails*, as they are commonly called, are numerous, and contain a *farrago* of words and obſolete matter, of no uſe to us. The ſubſtance of ſuch parts of them as are applicable to the practice of our Courts of common law may eaſily be reduced to one ſhort act

4. An act regulating diſtreſſes, replevins, the recovery of rent, and to prevent frauds by tenants. This act will be compiled from ſundry parts of 1 P and M c. 12—17 Ch 2 c. 7—2 W 3 c: 5—8 Ann c: 14—4 G 2, c: 28 and 11 G 2, c 19.

5. An act to prevent Frauds and Periuries. 29 Ch 2. c: 3—as our act reſpecting the atteſtation of wills, agrees in ſubſtance with the ſtatute of Frauds, though it differs a little in words, it deſerves conſideration, whether it will not be moſt proper to repeal that ſection in our law, and adopt the Engliſh one, or let ours ſtand and omit that of the Engliſh Statute. The difference between them is ſo ſmall, that, I believe, we have generally followed the Britiſh adjudications in practice, if ſo it would perhaps be moſt eligible to adopt the preciſe words of that Statute.

6. An act to prevent forcible entries and detainers; from 8 H 6, c. 9 31 El, c: 11—31 Ja: 1, c 15, and our act. It will be neceſſary that this act ſhould vary a little from the Engliſh Statutes, to render it more effectual, and better adapted to modern practice.

7. An act for the limitation of civil actions and criminal proſecutions; to be extracted from 21 Ja: 1, c 16. 10 W 3, c: 14—4 A. c: 16,—and our Acts limiting ſuits reſpecting the titles of land, for civil actions; and 31 El. c: 5, and laſt ſection of our act for the puniſhment of certain crimes, for criminal proſecutions; and all reduced to one act.

8. An Act reſpecting apprentices; Part of 5 El. c: 4—20 Geo. 2 c: 19, and 6 Geo: 3, c: 25.

9. An act concerning Baſtards—5 El: c: 3—16 Ch: 1, c: 4—13 and 14 Ch, 2, c: 12—6 G: 2, c: 31.

10. An act concerning promiſſory Notes; 3 and 4 A: c: 9.

It will probably be a beneficial addition to this Act, to make bond, and other ſpecialties for the payment of money, only negociable as promiſſory Notes. This is done in ſome of our ſiſter ſtates and daily practice ſeems to indicate the utility of it.

11. An act to enable the father to diſpoſe of the Guardianſhip of his child or children, untill the age of 21 years; one Section of 12 ch: 2, c 24.

12. There are parts of ſundry Statutes relating to the practice of the Law, which have been, in ſome meaſure, adopted by our courts; as 13. Ed: 1. c: 31. concerning bills of exceptions; 23. H 6. c: 9, concerning Bail Bonds, 4 and 5 W: 3 c: 21. declaring againſt priſoners in cuſtody; 43 El: c: 5, and 21 Ja: 1. c: 23 removing cauſes by Habeas Corpus, or Certiorari, and ſeveral modern ſtatutes for ſtriking ſpecial juries, ordering views, directing who ſhall pay coſts &c:—all theſe particulars, as they relate to the ſame ſubject, may with propriety be thrown together into one Act: or rather, as our Statute Book contains ſeveral acts on this ſubject, when the reviſion of that is taken up, it will, perhaps, be more eligible to reduce them all to our general law, adding thereto ſuch ſections of the Britiſh Statutes as are here alluded to.

The practice of the law has afforded matter for much popular cenſure and declamation, and has often engaged the attention of the Legiſlature. It is generally ſuppoſed that unneceſſary forms and delays attend the proſecution of civil ſuits, in our common Law Courts, and it muſt be acknowledged that many inſtances in practice, have afforded too much ground for ſuch an opinion. The Legiſlature have frequently attempted to remedy thoſe evils. Their efforts, though laudable, have not always proved ſucceſsful. The late practice Law is ſufficient evidence of this, by aiming at too much, it has not only, in a great meaſure, defeated itſelf, but has deſtroyed the efficacy of prior regulations, which on experience had been found very beneficial in practice. Inſtead of ſhortening ſuits it has manifeſtly protracted them, by authoriſing the frivilous plea in Bar, as it is improperly called, in all caſes whatever. The amendments in the practice of the Law, made before this act was paſſed; in allowing the Plaintiff to commence his action by *Summons* inſtead of *Capias*, which ſaves the expence and delay of arreſt, appearance, Bail, and all their conſequences: in taking away, in common caſes, the expenſive and burthenſome proceeding on writs of enquiry after interlocutory judgments: in authoriſing *Sett-offs* in caſes of mutual debts and dealings, and other ſimilar improvements, had rendered the proſecution of Civil actions as ſimple, perhaps, and expeditious as the nature of ſolemn forenſic adjudications would well admit: and every attempt to reduce them below that ſtandard, will probably weaken proportionably the ſolid baſis of rational juriſprudence; and thereby leſſen the ſecurity of the citizen.

Alterations in the fixed and eſtabliſhed forms of adminiſtering juſtice ought to be made with caution. They are founded on the wiſdom and experience of ages. Innovations in practice have a tendency to ſhake the foundation of ſubſtantial juſtice, and weaken the fabric of legal ſcience.

The eſſential forms *only*, of judiciary proceedings, ought to be regulated by law. The reſt ought to be referred to the judges of the courts, who have an undoubted right to make ſuch rules and regulations in practice, as ſhall conduce to the great end of adminiſtering juſtice, in the *eaſieſt*, *ſafeſt*, and moſt *expeditious* manner. They will *then* be more immediately reſponſible for their effects to their fellow-citizens, and their feelings will be intereſted in ſtrictly adhering to rules and regulations of their own fabrication. But as doubts or diffidence in the judges may have hitherto occaſioned a too great remiſſneſs in regulating the practice of their reſpective courts; it will, perhaps, be adviſable for the legiſlature explicitly to authorize and direct them to do it, by requiring the judges of the ſupreme court, in the firſt place, to frame and eſtabliſh a complete ſyſtem of rules, orders and regulations for the practice of the ſupreme court; to ſend a copy to every county court, the judges of which then to form rules and regulations for their reſpective courts, as nearly as may be agreeable to thoſe of the ſupreme court; the rules to be hung up publicly in the clerk's office and court-houſe of every county.

The *heads of bills* which I have mentioned, will comprehend the principal acts of parliament proper to be incorporated into our new code, except criminal law, which I have reſerved for a ſeparate conſideration hereafter. But I pretend not to have been very accurate, either in the arrangement or enumeration, of all the particular ſtatutes from which they ought to be compiled.

I have deſignedly omitted the *habeas corpus* act, 31 ch. 2, c. 2—becauſe, from the genius and circumſtances of our government, the common law writ of habeas corpus ſeems ſufficient; becauſe the federal conſtitution, having expreſsly recognized its principles, the object of it will become *national*; and laſtly, becauſe the proviſions of that famous ſtatute are calculated ſolely for the meridian of Great-Britain, and, therefore, if ſuch a law be neceſſary, it ought to be framed to anſwer the *local* purpoſes of our own government.

I likewiſe omit the ſtatute 13. Ed. 1, c. 1. *De Donis Conditionalibus*, as very exceptionable in its policy, and as virtually ſuperceded by our ſtatute barring entails.

The eſtabliſhment of our republican form of government has deſtroyed the foundation of the ſtatutes of H. 8, concerning *deviſes*. An abſolute title or eſtate in land, tho' ſtill called a *fee*, or *fee ſimple*, has now become, properly ſpeaking, an *Allodium*. The owners or proprietors of the lands of *New-Jerſey*, know no ſovereign but the people, no lords but themſelves. They are ſeized of the ſoil which they poſſeſs, *abſolutely* and *directly*, in their own right, and conſequently, on principles of plain *rational* law, as well as of the ancient common law (before feudal tenures were known) may diſpoſe of it abſolutely, or with ſuch conditional limitations, as conſiſt with the nature of real property, and the general intereſts of ſociety. The ſtate can now be ſeized of land only as a corporate body, or as the ultimate heir of all its citizens. *Deviſing by will* is as natural and neceſſary an incident of the right of property, as *conveying by deed*, and it is now as unneceſſary to enact a law to authoriſe the *Allodial* proprietor of land to *tranſmit* his eſtate by *will*, as it would be to authorize him to *tranſfer* it by *deed*.

The ſtatutes 13 and 27 Eliz. concerning fraudulent ſales and conveyances, being only in affirmance of the common law, enacted at a period when the principles of that law were not ſo fully elucidated and ſettled as at preſent, are now, perhaps, become unneceſſary; and a ſimilar obſervation will apply to ſeveral other ancient ſtatutes. It is unneceſſary to be particular in their enumeration. I ſhall only farther obſerve, that in caſes where the common law has made reaſonable proviſion, it is always adviſable to attempt no alteration by ſtatutes, as ten diſputes ariſe in practice upon the conſtruction of ſtatutes, to one on the common law. And, in adopting Britiſh ſtatutes, it will be better to omit ſome uſeleſs ones at preſent, than to introduce one *unneceſſarily*; becauſe they may at any time hereafter be adopted without inconvenience, whereas enacting or repealing uſeleſs laws, always tends to endanger and weaken the efficacy of *good* ones.

(To be Concluded to-morrow.)

Foreign Intelligence.

PARIS, Oct. 5.

We are now able to form a judgment on the diverſity of principles, which appeared in the addreſſes preſented to the Convention. It derives its origin from two diſtinct opinions, one tends to recall the days of terror and fright, we are hardly delivered of, and decides, that there cannot be too much done, in order to curb the enemies of liberty: the other concludes, that juſtice alone is ſufficient, and will create more partizans of Republican principles, than the beſt calculated means of tyranny and oppreſſion.

All thoſe, who have the moſt reaſon to fear that the hand of juſtice will at laſt reach them, declare in favor of the firſt opinion, and endeavor by all means, to conſerve their rank among the claſs of oppreſſors in order to prevent being ſacrificed to the juſt vengeance of the oppreſſed. For the honor of humanity, we ought to obſerve that the number of thoſe monſters is but ſmall; all hope however is loſt, to convert them it will be ſufficient to bridle them.

There is beſides a large number of citizens endowed with leſs underſtanding than good intentions who, being habituated to excentric principles, miſtake exceſs for true Patriotiſm, like thoſe bigots who are directed by cunning prieſts to expreſs their attachment to religion rather by auſtere and rigorous mummery than by practiſing its ſound maxims. The latter are only the dupes of the firſt claſs. Time and inſtruction will ſoon convince them of their errors, for they ſincerely wiſh the ſafety of the Republic.

The other opinion is ſupported by a majority of the citizens, who, having been themſelves witneſſes, or victims of the oppreſſions, weighing down the heads of the patriots, believe that the former ſyſtem would prove fatal to the republic if it ſhould be re-eſtabliſhed; this claſs of citizens, who always maintained themſelves at the height of true principles, are rallying in crowds round the Convention, and embrace with their Repreſentatives, juſtice as the firſt duty of individuals and of government.—The above circumſtances are the moving ſprings of the oppoſition which manifeſted itſelf in the different addreſſes of the day. The diſſentions would ceaſe, if the bad genius of intrigue, and the paſſions permitted men to liſten to arguments, and underſtand each other. What do you aim at? might be aſked of each party, to watch and retain all the enemies of the liberty, to maintain the revolutionary government till the war is over, to combat all kinds of tyranny, to operate by all poſſible means the welfare of the Republic. This is the general wiſh and the duty of every individual worthy to be called a citizen.

The ci-devant Abbe Girault-Soulavie, reſident of France at Geneva, againſt whom the former Republic has made ſevere complaints; was conducted by the national Gendarmerie to Paris, and impriſoned. It is reported, that a correſpondence with Robeſpierre whoſe principles he eagerly propagated, was found among his papers.

NATIONAL CONVENTION.

September 18.

Cambon, in the name of the Committee of finances, propoſed and the Convention decreed: that the French Republic ſhall in future neither pay the expences nor the ſalaries of any form of religious worſhip. [By this decree the Republic ſaves a ſum of more than 80 millions of livres per annum; it is to be wiſhed that this meaſure may not ſerve at the ſame time as a ſignal for the ſuperſtitious, and royaliſts to raiſe freſh diſturbances in the interior of the Republic.] The ſame decree alſo regulates the eccleſiaſtical penſions.

Iſore, preſented intereſting and explicit obſervations on ſome inconveniences, which reſult from the law of the maximum, to merchandizes fabricated in our manufactories; he concluded with propoſing the abolition of that law. The aſſembly ordered the project to be printed and adjourned.

The poular ſociety of Tavargue, department of Ardeche (in the ſouth of France) informed the Convention that the brigands of that country, had deſigned to eſtabliſh a new Vendee there, and had already tried to render themſelves maſters of the chateau d' Alais; but the plot had been diſcovered and fruſtrated; four of the principal chiefs were arreſted; among theſe one Dom'nic Allier, who had invited in the name of Louis XVII, all the vagabonds like him, to take up arms againſt the republic; they had beſides arreſted a new Catherine de Thieus, who acted the part of a propheteſs in the conſpiracy. The National guard of Joyeuſe, had vaſtly contributed to cruſh the rebellion, by arreſting the above mentioned individuals.

The denunciation of that new plot gave riſe to different propoſitions.

Berie attributes the cauſe of the diſturbances to the fanatical prieſts, who have retreated to the mountains, where they beſet the credulous people. He accuſed at the ſame time the ex-nobles who were kept in public ſtations, as accomplices of the diſaffected clergy. He demanded, that the refractory prieſts ſhould be tranſported out of France, and the nobles excluded from all public employments.

Jourdan of the Nievre, expreſſed his ſurprize, that the ſucker (the S n) of Capet, ſhould ſtill ſerve as a point of rallying, and offer a pretext to conſpirators againſt the republic. "Certainly, he ſaid, there muſt exiſt ſtill ſome plots, when we ſee individuals preaching in the ſtreets, and poſting up on the walls of Paris, inſurrection againſt the national repreſentation. I demand that the committees make ſuch a report, on the members of the Convention, that every body may afterwards be able to ſay, here are the men, who deſerve our confidence; there are the individuals, unworthy to be truſted; (murmurs) did not the Jacobins affirm yeſterday, that many deputies were unworthy of ſitting in the Convention? (ſome members exclaimed it was Vadier.) Let him mount the tribune and ſpecify them. I demand that the committees occupy themſelves in preſenting ſuch meaſures, as will prevent in future, the Capet family from cauſing us the leaſt uneaſineſs.

Maſſieu, I aſſiſted at the Jacobins, and heard indeed ſome words, like thoſe mentioned by Jourdan; they expreſſed the opinion of one member, but not of the ſociety, which wiſhes nothing more than to continue cloſely united with the Convention. It ſeems beſides a little ſtrange that Vadier ſhould be accuſed, for having ſuppoſed at the Jacobins, what Jourdan himſelf ſeemed willing to confirm at the tribune of the Convention.

Duhem ſeconded the motion of Jourdan, as far as it concerned the rallying point of the royaliſts. He demanded beſides, as an expert phyſician, that the committees ſhould examine the queſtion, whether it would not be adviſable, to vomit out of the territory of the republic, not only the children, but the whole infernal family of Capet and all their adherents. The propoſitions were referred to the committees of public and general ſafety.

UNITED STATES.

NORFOLK, December 1, 1794.

In the report of the debates of the Jacobin Club, thoſe who had expreſſed an attachment to the Convention, were conſidered as unfriendly to the Club: Duhem particularly denounced thoſe who were in the habit of making uſe of the exclamation "Vive la Convention!"

The Jacobins poſſeſs ſo much influence in the Committee of General Safety, as to obtain an order from the Committee to arreſt two members of the Convention, Real and Dufourny. They ſeem even to conſider themſelves as ſufficiently powerful to dictate to the Convention; and for this purpoſe they came to a reſolution, on the 9th September, to preſent a ſtrong addreſs to the Convention.

Several events, however, have prevented the Society from obtaining much influence over the minds of the people.—Tallien, who was expelled from the Jacobins on the 3d, was aſſaſſinated on the 9th inſt. and this aſſaſſination has been attributed to the Jacobins. The horrible maſſacre of thirty-eight of the priſoners (releaſed from the priſon at Nantes) by order of the Revolutionary Committee of Nantes has drawn much odium on the Jacobin Club; for it will be recollected, that the Club poſſeſſed much influence in the appointment of the members of the Revolutionary Committees in the departments.

The Convention in the mean time ſeems to have acted with becoming vigour. Merlin of Thionville, denounced the Jacobins as the continuators of the tyranny of Robeſpierre; and Thibault, even ventured in the preſence of the Jacobins to move that the Society ſhould be deprived of its functions. Though this motion was not carried, it was only conſidered as imprudent; and we venture to predict, that the extinction of the Society is an event that will ſpeedily occur.

New-Jerſey, Houſe of Aſſembly, Dec. 3, 1794.

Reſolved, That the Legiſlature embrace the preſent occaſion of expreſſing their approbation of the meaſures purſued by the Preſident of the United States, for ſuppreſſing the inſurrection in the four weſtern counties of Pennſylvania, and with pleaſure view his ſolicitude and care for a due execution of the laws and ſupport of the conſtitution.

Reſolved, That the Legiſlature of