nity of acting in February as in June. As far as regards myſelf, I care not whether they pronounce the repealing law unconſtitutional or not, though I ſhould regret ſuch an act as I wiſh harmony to prevail between all the departments of the government. My being, therefore, in favor of poſtponing the ſeſſion till February does not ariſe from any deſign which I entertain to prevent the exercise of power by the judges. But we have as good a right to ſuppoſe gentlemen on the other ſide are as anxious for a ſeſſion in June, that this power may be exerciſed, as they have to ſuppoſe we wiſh to avoid it to prevent the exercise.

As to the propoſition of one annual ſeſſion, inſtead of two, that has been already diſcuſſed and decided upon. But if gentlemen merely wiſh to ſave the preſent circuit courts until the 1ſt of July, though I think that is already provided for by the bill, I will have no objection to an amendment to that effect.

Mr. Griswold. The fourth ſection either puts down the preſent circuit courts, or it eſtabliſhes two ſets of circuit courts. It is therefore reaſonable and proper to agree to the amendment that this effect may be prevented. And I cannot believe that this houſe is afraid of having a ſeſſion of the ſupreme court in June. I know that it has been ſaid out of doors, that this is the great object of the bill. I know there have been ſlanders of this kind—but they are too diſgraceful to aſcribe to this body. The ſlander cannot, ought not to be admitted. I, therefore, hope that gentlemen will agree to have a ſeſſion in June next. For my part, I have ſtrong reaſons for wiſhing a ſeſſion in June. I believe the repealing act is an uſurpation of power by the legiſlature; and wherever I ſee an uſurpation, I think the ſpeedier it is checked the better. I have, therefore, no heſitation to ſay, I wiſh an early ſitting of the ſupreme court. To their judgments I ſhall ſubmit, and I truſt every member in the community will alſo ſubmit.

Mr. Bacon. I apprehend the gentleman uſed not labor very hard to diſpel the fears entertained of a ſitting of the ſupreme court. I apprehend there is no cauſe of fear. Nor do I ſee the neceſſity of the amendment to ſave the conſtitution; becauſe if the repealing act be unconſtitutional, it is no law and not in the way of their meeting. If it is ſo conſidered by the judges they will meet together of courſe. I, therefore, think that even the gentleman from Connecticut can have no very alarming apprehenſions on this ſcore.

The queſtion was then taken by yeas and nays on Mr. Bayard's motion, and loſt. Yeas 27—Nays 46—as follow:

YEAS.

Meſſrs. Alſton, Bayard, Campbell, Cutler, Davenport, Dennis, Elmer, Foſter, Goddard, Griſwold, Haſtings, Henderſon, Hager, Lowndes, L. R. Morris, T. Morris, Mott, Plater, Read, John Smith, Stanley, Tallmage, Tenney, Tillinghaſt, Upham, Wadſworth, L. Williams.—27.

NAYS.

Meſſrs. Archer, Bacon, Bailey, Biſhop, Bowie, Brent, Brown, Butler, Claiborne, Clay, Clopton, Condit, Cutts, Dawſon, Dickſon, Elmendorf, Eſtis, Fowler, Giles, Gray, Hanna, D. Heiſter, J. Heiſter, Helms, Holland, Holmes, Leib, Milledge, Mitchill, New, Nicholſon, Smilie, I. Smith, J. Smith, (N. Y.) J. Smith, (Vir.) S. Smith, Stanford, Stanton, Stewart, Taliaferro, Thomas, Thompſon, A. Trigg, J. Trigg, Van Cortlandt, Van Horne.—46.

FRIDAY, April 23, 1802.

The bill to amend the judicial ſyſtem of the United States was read a third time.

Mr. Bayard. I am decidedly oppoſed to the paſſage of this law. Its defects are as numerous as its proviſions; and it introduces not a ſingle improvement into the ſyſtem it is deſigned to amend. I mean not to trouble the houſe with an extended or detailed view of the ſubject. Conſidering the value of our time, from the ſmall portion which remains before the ſeſſion will terminate, by the reſolution we have paſſed, I ſhall content myſelf with pointing out ſome objections to the bill—which according to the opinion I entertain, furniſh ſufficient ground to induce gentlemen to refuſe to it their aſſent.

The 9th ſection which happens at preſent to be under my eye, contains a proviſion not ſimply abſurd but extremely miſchievous. I ſhould have moved to recommit the ſection, could I have flattered myſelf with the moſt diſtant proſpect that any motion I made, ſupported by any reaſon which could be advanced upon this ſubject, would have been adopted by a majority of the houſe.

But, ſir, having failed in many amendments, recommended by very plain ſtrong ſenſe, I was unwilling to waſte time in a vain effort, which would have been reſiſted, without the trouble of attending to its object.

The ſection to which I refer provides, that all cauſes and proceſs, either of a civil or criminal nature, which ſhall be depending or returnable in any of the circuit or diſtrict courts of the United States on the firſt day of July next, ſhall be continued, and transferred and returnable to the circuit and diſtrict courts eſtabliſhed by this act.

Cauſes depending in, or proceſs returnable to any diſtrict court in the United States, are transferred to the circuit and diſtrict courts eſtabliſhed by the act—By the act there is a circuit court inſtituted in each diſtrict, but no new diſtrict court is eſtabliſhed except in the diſtrict of N. Carolina and Tenneſſee.

One of two things muſt therefore follow, either that all cauſes in the diſtrict courts of the other diſtricts, muſt be transferred to the diſtrict courts of N. Carolina and of Tenneſſee, or be carried into the circuit courts, which the act eſtabliſhes in the ſeveral diſtricts. However abſurd this operation may be, yet as the power of the legiſlature to produce it cannot be denied, the expreſs and unequivocal words of the law muſt take effect.

It is not the deſign, I preſume to aboliſh the diſtrict courts, and though they are ſuffered to exiſt, they are capriciouſly ſtript of all their buſineſs which is cumulated upon the circuit court.—I aſk if gentlemen can give a different conſtruction to this ſection, if they can deny the operation I attribute to it, and if there be a ſingle member who will undertake its defence.

In looking, Mr. Speaker, through the bill before us, I diſcover but one defect of the ancient ſyſtem which it attempts to correct. That is the rotatory conſtitution of the court, in relation to the judges who compoſed it. The act confines particular judges of the ſupreme court, to ſeveral circuits which it creates. This proviſion deſigns that the circuit courts ſhall always be compoſed of the ſame judges. This might have been conſidered as an uſeful improvement, if pains had not been afterwards taken to render it abortive.—The law has not named though it has contrived to deſignate perſonally the judges of the ſupreme court, at preſent aſſigned to hold the courts in the ſeveral circuits. But as ſucceſſive vacancies happen on the bench of the ſupreme court, the judges are by allotment to be aſſigned anew to their different circuits.

This proviſion reproduces the very evil, and the only one which the bill profeſſes to correct in the old ſyſtem.

As there are ſix judges and generally advanced in life, vacancies from death or reſignation muſt occur in very ſhort periods. Upon each vacancy every judge ceaſes to be attached to a particular circuit and muſt wait for a new allotment to know the circuit to which he is to belong.—The judges had formerly the power of aſſigning themſelves to particular circuits, and the only change which is introduced is that an aſſignment of the judges once made, it cannot be varied till a vacancy on the bench occurs. This however muſt happen ſo frequently as to expoſe the circuit court to the ſame oſcillations, in the adminiſtration of juſtice, as were experienced and complained of under the old ſyſtem.

I would beg alſo that gentlemen would give us ſome information upon a point of great importance, and of great doubt, which ariſes out of the arrangements upon this ſubject. After a vacancy occurs upon the bench of the ſupreme court, what is the ſituation of the circuit courts, before a new allotment is made by the judges of the ſupreme court?

Upon every new appointment, the allotment is to be made, and until it is made, the power of the judges in their ancient circuits would ſeem to be ſuſpended. The allotment can only be made at a ſeſſion of the ſupreme court, and as the court has but one annual ſeſſion in the month of February, if a vacancy ſhould happen and an appointment be made in the month of March or of April, the circuit courts would be ſuſpended for more than a year, and the whole buſineſs of the courts deſtroyed by diſcontinuance. Is it poſſible that gentlemen can give their aſſent to a bill, pregnant with ſuch miſchief and injuſtice. Can they ſuppoſe that this thin veil, this gauzy covering, will conceal from the eyes of the world, the latent deſign of deſtroying the judiciary power of the United States, by rendering it incapable of attaining juſtice and productive only of vexation and expence.

The 4th ſection of the bill, contains a proviſion which certainly tranſcends the power of congreſs, great as it has appeared during the exiſting ſeſſion. It enacts that the court in the 5th circuit ſhall be holden by the preſent *chief justice* and the judge of the diſtrict in which the court ſhall be holden. The law has no limitation, and is deſigned as a permanent ſyſtem. It ſuppoſes therefore that the *present chief justice* aſſociated with the diſtrict judge, is *for ever* to compoſe the circuit court of the 5th circuit. This ſir, might have been an overſight in draughting the bill, but what will it be when with our eyes open we adopt it in the law. Will the public be ſatiſfied with laughing at the abſurdity, without ſuſpecting the integrity of the motive which induced the houſe to aſſent to it.

I will not fatigue you, Mr. Speaker, with the uſeleſs labour of attending to a critical examination of the incongruities and abſurdities which abound in the bill, but I call, and I have a right to call upon the friends of it to come forward, and point out a ſingle particular in which it corrects a defect in the old ſyſtem.

Do gentlemen ſuppoſe that the people of this country have no underſtanding? Do they imagine that they will always remain the dupes of empty words, that they will look no farther than the title of a law and continue to repoſe an implicit faith, after finding themſelves repeatedly deceived? You call this a 'bill to amend the judicial ſyſtem of the United States,' but amendment is not the effect, and nothing is more remote from the deſign of it.

Having enumerated the defects of the ancient ſyſtem upon a former occaſion, I will not now repeat them, but I affirm, and if I am wrong, the advocates of the bill will expoſe the error, that not one of theſe defects is removed by the preſent law.

There is one view of this ſubject which requires that information ſhould be given not to the houſe ſimply but immediately to the nation. Is it the deſign of gentlemen by this bill to deſtroy the power of the preſent judges of the circuit courts during the ſhort period of their political exiſtence, allowed by the repealing act which was lately paſſed. This law is to take immediate effect. It breaks down all the circuits formed by the act of 1801, and throws the diſtricts into new circuits.

The preſent judges were appointed & commiſſioned for certain circuits. A judge commiſſioned for the firſt circuit could exerciſe no authority in the ſecond.

The new arrangement aboliſhing the old circuits how are the judges to determine the boundaries of their power.

I ſhall be allowed to exemplify my view by ſtating the caſe relative to the ſtate to which I belong. Under the law of 1801, Delaware was a member of the third circuit, by the preſent bill ſhe is comprehended in the 4th, the queſtion therefore is whether a commiſſion to hold a court in the 3d circuit, will authoriſe a judge to hold one in the 4th. Is the point exempt from all doubt? And are we excuſeable in leaving a doubt upon a point of ſuch conſequence and reſponſibility.

While we are paſſing this law the courts are in ſeſſion, the judges obedient to the obligations of duty are exerciſing the ſolemn functions of their office, and while they are occupied as they believe in adminiſtering juſtice, if we aboliſh their legitimate authority, we render them, their officers and ſuitors, treſpaſſers, and might expoſe them even to the accuſation of murder.

Will not gentlemen avow their intentions on this point, and by a few plain words enable the judges diſtinctly to perceive the path which they are to purſue.

But ſir, when I look to the object of this bill, I become ſenſible how idle it is for me to aſk for any thing, however moderate and reaſonable it may be.

To accompliſh that object, every objection will be trodden under foot.

This act is not deſigned to amend the judicial ſyſtem—that is but pretence. If amendment had been in view, gentlemen would have contrived a better plan than the preſent bill propoſes, which I panegyrize by calling a miſerable piece of patch work. No ſir, *the design of this bill is to prevent the usual session of the supreme court in next June.*

It is to prevent that court from expreſſing their opinion upon the validity of the act lately paſſed which aboliſhed the offices of the judges of the circuit courts, until the act has gone into full execution, and the excitement of the public mind is abated. I know not that the ſubject would be brought before the judges, or that they would officially take it up, but it is the fear of their ſolemn opinion, and a knowledge of the juſt reverence which the people of this country entertain for judicial deciſion, which has given birth to the preſent expedient. Could a leſs motive induce gentlemen to agree to ſuſpend the ſeſſions of the ſupreme court for 14 months. The laſt ſeſſion was in December; the judges are forbidden to aſſemble again till fourteen months from that time have expired. Could a more dangerous precedent than this be eſtabliſhed? May it not lead to the virtual abolition of a court, the exiſtence of which is required by the conſtitution.—If the functions of the court can be expended by law for fourteen months, what time will arreſt us before we arrive at ten or twenty years. This objection to the bill alone would be fatal in my mind. We have offered an amendment upon this point enabling the judges of the ſupreme court to meet in June. We have begged gentlemen to accede to this amendment, if for no other reaſon than to baniſh the aſperſions as to the object of the bill, but though we are told they are indifferent as to the opinion of the ſupreme court upon the validity of their late act, yet we find the bill tenaciouſly adhered to, and that with all its imperfections about it, it is to be converted into a law. The majority, ſir, muſt have their will, but I am deceived if their triumph is of long duration. The people of America can be governed, but a ſhort time by empty words and hollow pretences.

Mr. Bayard concluded by calling the Yeas and Nays on the paſſage of the bill, which were Yeas 46—Nays 30; as follow:

YEAS.—Meſſrs. Alſton, Archer, Bacon, Baily, Biſhop, Bowie, Brent, Brown, Butler, Claiborne, Clay, Clopton, Condit, Cutts, Dawſon, Dickſon, Elmendorf, Fowler, Giles, Gray, Hana, D. Heiſter, Helms, Holland, Holmes, Leib, Milledge, New, Nicholſon, Smilie, I. Smith, J. Smith, (of New-York) J. Smith, (of Virg.) S. Smith, Southard, Stanford, Stanton, Stewart, Taliaferro, Thompſon, A. Trigg, J. Trigg, Van Cortlandt, Van Neſs, Van Horne, Williams—46.

NAYS.—Meſſrs. Bayard, Bonde, Campbell, Cutler, Dana, Davenport, Davis Dennis, Elmer, Foſter, Goddard, Griſwold, Haſtings, Henderſon, Lowndes, R. Morris, T. Morris, Mott, Plater, Read, Stanley, Stratton, Tallmage, Tenney, Tillinghaſt, Upham, Wadſworth, Williams, Woods—30.

For the National Intelligencer.

To Recantator.

However ingenious, however well painted your third Number is,* I cannot allow that the whole of the reaſoning is correct or concluſive. You accuſe our chief magiſtrate with want of conſiſtency by comparing what he ſays reſpecting the naturalization of foreigners in his notes on Virginia, and in his firſt meſſage to congreſs. In drawing this compariſon, there is, I think, conſiderable want of candour in you. Indeed this is ſo glaring, that you ought not to expect to eſcape without animadverſion. I believe he has been uniformly friendly to aliens.

After quoting from his notes this paſſage, "If they come of themſelves they are entitled to all the rights of citizenſhip, but I doubt the expediency of inviting them by extraordinary encouragements."

You ſay, "ſuffer me to aſk, whether they come of themſelves, or whether they be invited, is not the effect upon America the ſame in fact?" I anſwer, no.

You ſay, "we are in danger by their coming of having our government degraded, our morals injured, our liberties polluted with licentiouſneſs, and our Legiſlation diſtracted and confuſed." You not only ſay this, but you aſk, "will theſe baneful circumſtances leſs attend them, ſhould they come without an invitation?" If you mean of choice and voluntarily, I anſwer *yes*; but if of neceſſity, I anſwer *no*. You could not have written in this manner, had you not been blinded by national pride and prejudice.

You proceed and ſay, "If it be the policy of America to hold out no extraordinary encouragement, if by ſo doing, ſhe runs the riſque of incurring thoſe dangers, ſurely no poſition can be clearer than that ſhe ought to diſcourage the emigration of them." I cannot agree with you that this concluſion neceſſarily follows from the premiſes. If I do not behave politely to a perſon, does it neceſſarily follow that I behave rudely? May not even then my conduct be civil? If I am not extravagant and laviſh, muſt it neceſſarily follow that I am parſimonious?

I believe there are many in the United States, and natives too, who will allow with me, that there are many of thoſe who emigrate to this country from choice, who are a valuable acquiſition to it; who ſtop at temperate liberty, and whoſe behaviour and habits have a tendency to check licentiouſneſs and to promote order and ſobriety. Were it otherwiſe, you muſt ſuppoſe the very ſoil and climate here have a wonderful effect in poliſhing and regenerating mankind.—But is there any other man beſides yourſelf who can think ſo? This certainly is too abſurd a ſuppoſition to gain credit with any who are not blinded by prejudice.

No obſervation can be more juſt than what the Preſident has made uſe of in his meſſage, and which you have overlooked, viz. "Conſidering the ordinary chances of human life, a denial of citizenſhip under a reſidence of fourteen years, is a denial to a great proportion of thoſe who aſk it, and controuls a policy purſued from their firſt ſettlement by many of theſe ſtates, and ſtill believed of conſequence to their proſperity."

To ſhew you that others beſides the Preſident, who are natives of this country, differ from you in opinion on this ſubject, I can inform you that one of the Senators of the United States has been heard to ſay that foreigners ought to be naturalized immediately on their arrival in this country.

Before I conclude, I will aſk you one ſimple queſtion; are there not ſome who emigrate to this country, believing that the government here eſtabliſhed confers a greater degree of political liberty than any other government on earth does? And is it to enjoy this liberty be the principal motive of their emigrating, is it not probable that they will behave well?

ATTICUS.

* See Washington Federaliſt, May 18, 1802.

Lateſt Foreign Intelligence.

Translated for the Mercantile Advertiser, from Paris Papers to the 24th April, received by the Sophia, captain Hand, from Havre de Grace.

LONDON, April 15.

Yeſterday morning Mr. Pierrepont embarked at Dover for Calais, accompanied by Mr. Hunter the meſſenger. He is the bearer of the ratification of the definitive treaty on the part of his Britannic majeſty.

Lord Whitworth is on the eve of departure for France.

April 16.

In the Houſe of Lords, on the 14th, lord Holland enquired if the miniſter intended to lay before the houſe the convention lately concluded with the powers of the North? The ſecretary of ſtate, lord Pelham, replied, he had no reaſon to ſuppoſe that the king would refuſe to the houſe the papers relative to that convention.

April 19.

FRENCH REPUBLIC.

Paris, April 18.

Yeſterday the Firſt Conſul ratified the definitive treaty of peace between the republic and his Britannic majeſty. The reſpective ratifications were exchanged this day, Sunday at 9 o'clock in the morning.

A Senatus-Conſulte has been iſſued, in conſequence of a meſſage from government, by the conſervatory ſenate, which pronounces an amneſty to the greateſt part of the emigrants. It is added that the number of thoſe remaining on the liſt is only from one thouſand to twelve hundred.

This morning, at ſix o'clock conformably to public notice, a diſcharge of 60 guns, announced the promulgation of the law on worſhip.—After the diſtribution of colours, by the Firſt Conſul, to ſeveral battalions, the proceſſion began to move from the palace of the Thuilleries. It was almoſt noon before the carriage of the firſt conſul, in which were the two other conſuls, could get out of the palace yard. Every where, on his paſſage, the firſt conſul received the congratulations of an immenſe crowd of people in all directions. On his return from Notre-Dame, the ſame teſtimonies of public acknowledgement accompanied him to the palace of the Thuilleries. It is a great length of time ſince Paris offered a ſpectacle altogether ſo impoſing and majeſtic as that which its inhabitants have this day witneſſed.

Proclamation.

The Consuls of the Republic, to the French.

Frenchmen,

From the boſom of a revolution, inſpired by a love of the country, religious diſſentions ſprung ſuddenly amongſt you, which became the ſcourge of your families, the fuel of factions, and the hope of your enemies.

An inconſiderate policy attempted to ſmother them under the ruins of the altars, even under the ruins of religion itſelf. At its voice ceaſed the pious ſolemnities where citizens uſed to call each other by the tender name of brother, and acknowledged themſelves all equals under the hand of the God who created them; the dying, abandoned to his ſufferings, heard no more that conſoling voice which calls chriſtians to a better life; and God himſelf ſeemed exiled from nature.

But the public conſcience and the ſentiment of the independence of opinions, roſe up in arms, and, encouraged by our exterior enemies, their exploſion ſoon ſpread devaſtation in our departments; ſome Frenchmen forgot they were Frenchmen, and became the inſtruments of a foreign hatred.

On the other hand, paſſions let looſe, unprotected morals, unhappineſs without a hope in the future, all combined to throw ſociety into diſorder.

To ſtop that diſorder it became neceſſary again to ſet religion on its baſis; and this could not be accompliſhed otherwiſe than by meaſures avowed by religion itſelf.

Reaſon and the example of all ages recommended having recourſe to the Sovereign Pontiff, in order to unite hearts and reconcile opinions.

The head of the church has weighed in his wiſdom, and for the intereſt of the church, the propoſitions which the intereſt of the ſtate had dictated. His voice has been heard by the miniſters of religion: What he approves of, the government agrees to; and the legiſlators have made it a law of the Republic.

In this manner every element of diſcord diſappears; and all ſcruples which can alarm the conſcience, and all the obſtacles which malevolence could oppoſe to the return of internal peace, are vaniſhed.

Miniſters of a religious peace, let the moſt profound oblivion cover your diſſentions, your misfortunes and your faults! Let that religion which unites you, attach you all by the ſame ties, by indiſſoluble ties, to the intereſt of your country! Diſplay for her all the ſtrength