

The IRRESISTIBLE : DANIELS, Claimant.

Repeal of penal statutes.

An offence against a temporary statute cannot be punished after the expiration of the act, unless a particular provision be made by law for that purpose.

The proviso in the repealing clause of the neutrality act of the 20th of April 1818, did not authorize a forfeiture, under the act of the 3d of March 1817 (which was included in the repeal), after the time when that act would have expired by its own limitation.

APPEAL from the Circuit Court of Maryland. This cause was submitted without argument.

March 20th, 1822. MARSHALL, Ch. J., delivered the opinion of the court. —*This is an appeal from a sentence of the circuit court of the United States for the district of Maryland, dismissing an information filed [*552 in that court against the brig La Irresistible, as forfeited, under the acts of congress made for the preservation of the neutrality of the United States. The offence charged in the information, was committed under the act of 1817, and the only question is, whether the information can be sustained, after the time when that act would have expired by its own limitation?

The act was to continue in force two years after the 3d of March 1817. On the 20th of April 1818, congress passed an act making further provision on the same subject, which repealed all former acts on that subject, and among these the act of 1817, and annexed to the repealing clause the following proviso, "Provided, nevertheless, that persons having offended against any of the acts aforesaid may be prosecuted, convicted and punished, as if the same were not repealed, and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal." The obvious construction of this clause is, that the power to prosecute, convict and punish offenders against either of the repealed acts, remains as if the repealing act had never been passed. It does not create a power to punish, but preserves that which before existed. Now, it is well settled, that an offence against a temporary act cannot be punished, after the expiration of the act, unless a particular provision be made by law for the purpose.

Sentence affirmed.

*HOLBROOK *et al.* v. UNION BANK OF ALEXANDRIA.

[*553

Banking capital.

The turnpike-road stock, paid in as a part of the capital of the Union Bank of Alexandria, before its incorporation, became the common property of the association, so as to be subject to be sold and distributed among the members, after the charter, which directed, that the capital stock should consist of money only, was accepted; and those who subscribed the road stock, or their assignees, were not entitled to have the same returned specifically to them.

APPEAL from the Circuit Court for the District of Columbia. This was a suit in chancery, instituted in the court below, by Holbrook and