The rule of so construing a statute as not to give it a retrospective effect is admitted. And a legislature can never be presumed to intend to destroy a vested right. Indeed, they have no power to pass such a law. But a law may be constitutional, and yet have a retrospective effect. *Matthewson* v. *Satterlee*, 2 Pet., 380. In the case under examination, it is not proposed to give the statute a retrospective effect, or to affect in any degree vested rights by a construction of it. The only question is, whether the six years that the statute had to run, on the repeal of the saving, is a reasonable part of the whole time required by the act to constitute a bar. The plaintiff, though not a resident of the State, might have sued so soon as the right of action accrued.

ORDER.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Illinois, and on the point or question on which the judges of the said Circuit Court were opposed in opinion, and which was certified to this court for its opinion, agreeably to the act of Congress in such case made and provided, and was argued by counsel. On consideration whereof, it is the opinion of this court, that the statute of 1827 begins to run from the time of the repeal of the saving clause in 1837, and not before. Whereupon, it is now here ordered and adjudged by this court, that it be so certified to the said Circuit Court.

Jeremiah Van Rensselaer, Appellant, *v.* John Watt's Executors.

Owings v. *Tiernan* (10 Pet., 447), followed, as to docketing causes where fee bonds were not filed in time.

Mr. Blount, of counsel for the appellant in this cause, moved the court to direct the clerk to docket the case as of the time *when the transcript of the record was received by him, [*785 and in support of his motion said, that this record was forwarded to the clerk early in 1848. That it was only recently he learned that the clerk had declined filing or docketing it, until the bond prescribed by the thirty-seventh rule of court was given. That his client supposed, when he gave bond in the Circuit Court, that he had done all that the law required him to do. That the record had been lying in the clerk's office about a year, during which some sixty cases had been docketed. That the bond was now filed, as prescribed by the rule, and that the case ought to be docketed as of the day the record was deposited in the office.

Mr. Seward, for appellees, united in the application.

This motion was made on the 9th of March, when the court took time to consider.

On the 12th, Mr. Chief Justice TANEY announced the decision of the court as follows:—

On consideration of the motion made in this cause, on the 9th instant, by *Mr. Blunt*, of counsel for the appellant, to direct the clerk to docket this case as of the time when the transcript of the record was received by him, and to which *Mr. Seward*, of counsel for the appellees, assented, this court consider the practice established by the decision in *Owings* v. *Tiernan*, 10 Pet., 447, and do not wish to disturb it;[1] whereupon it is now here ordered by this court, that the said motion be, and the same is hereby, overruled.

Cornelius W. Lawrence, Plaintiff in error, *v.* Gilbert Allen and Samuel C. Paxton.

By the fifth section of the tariff act passed on the 30th of August, 1842, (5 Stat. at Large, 555,) a duty of thirty per cent. is imposed on "India-rubber oil-cloth, webbing, shoes, braces or suspenders, or any other fabrics or manufactured articles composed wholly or in part of India-rubber."

In the ninth section, among other articles declared to be exempt from duty, is, "India-rubber in bottles or sheets, or otherwise unmanufactured."

By these sections, the duty of thirty per cent. is payable upon shoes made of India-rubber in Brazil, although they are made by the same process as bottles or sheets, provided they come to this country in a condition to be worn without further material labor on them here, and were actually worn in this form, and provided they were called, in the language of commerce, "India-rubber shoes"; and of these two facts the jury ought to judge.

The articles come within the letter of the law, and the act of 1842 was framed with a desire to tax whatever might compete with our own manufactures.

When India-rubber is made into a shape suitable for use, it may be considered a manufactured article. Originally, it was made into the shape of boots, to
*786] be used *and worn in Brazil, and afterwards into shoes; but not intended to be sent abroad as a raw material.

The fact, that the material of which these shoes are made is used for other articles of manufacture after their importation, does not change this view of the subject.

[1] Followed. *Selma &c. R. R. Co.* v. *Louisiana Nat. Bank*, 4 Otto, 254; *Edwards* v. *United States*, 12 Id., 576; s. c., 1 Morr. Tr., 389.