

The Irresistible

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Court : US Supreme Court

Decided On : 1822

Appeal No. : 20 U.S. 551

Appellant : The Irresistible

Judgement :

The Irresistible - 20 U.S. 551 (1822)

U.S. Supreme Court The Irresistible, 20 U.S. 7 Wheat. 551 551 (1822)

The Irresistible

20 U.S. (7 Wheat.) 551

APPEAL FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE DISTRICT OF MARYLAND

SYLLABUS

An offense 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 20 of April, 1818, did not authorize a forfeiture under the act of 3 March, 1817 (which was included in

the repeal), after the time when that act would have expired by its own limitation.

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

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This is an appeal from a sentence of the Circuit Court of the United States for the District of Maryland dismissing an information filed 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 offense 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 3 March, 1817.

On 20 April, 1818, Congress passed an act making further provision on the same subject which repealed all former acts on that subject, and among these the act of 1817, and annexed to the repealing clause the following proviso: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having offended against any of the acts aforesaid may be prosecuted, convicted, and punished as if the same were not repealed and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal."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obvious construction of this clause is that the power to prosecute, convict, and punish offenders against either of the repealed acts remains as if the repealing act had never been passed.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 offense 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.

