

to expire, or, by the refusal of the legislature to continue it, the act of 1792 was virtually revived and again in force. There is not one syllable to be found recorded in the votes and proceedings, of the last session of either branch of the General Assembly, going to show, that such was the understanding and belief of the legislature. But, supposing such to have been their opinion, the position is not correct, even on common law principles; and is utterly untenable according to our constitution. It is an established rule of the common law, that by the repeal of a repealing statute, the original act is virtually revived. But, that is not the case now under consideration. It is this: The statute of 1798 professes to repeal the prior act of 1792, by substituting other provisions, as to the whole subject, for which that act had provided: and, then the act of 1798 is, in general terms, limited to two years. Now, in such case, it has been adjudged, that the prior act does not revive after the repealing act is spent; unless the intention of the legislature, to that effect, be *expressed*. In this instance no such intention has been expressed; and, consequently, *upon common law principles*, neither of those acts are now in force; and our statute book presents an entire blank so far as regards the chancellor's salary. (w)

But, let it be conceded for a moment, and by way of argument, that the effect of discontinuing or suffering the act of 1798 to expire, would be, that the act of 1792 would be revived.—It certainly will not be contended, that the effect of this *constructive revival* of the act of 1792 would be a complete revival of the whole of it, including all such clauses as had been repealed or altered by any perpetual and now subsisting law. By a virtual revival of a law nothing more has been ever understood to be thus revived, than that which would have continued in force, had it not been the law, which was repealed or had expired. This is the principle of a constructive revival, it goes no further. Now let us

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(w) Warren v. Wendle, 3 East, 205; The King v. Rogers, 10 East, 569.

1765, ch. 33, note, *per* HANSON, *Chancellor*.—It may be necessary to remark, that the repealing clause of this act, notwithstanding its expiration, is still in force. There is an evident and material distinction between a temporary act containing a repealing clause, which act is suffered to expire, and an act made for the purpose of repealing another act, which is afterwards itself repealed. In the first case, the legislature declares its intention, that an act be done away and rendered void, and there is no proceeding of the legislature afterwards to restore life to the act repealed. In the second case, the legislature expresses the same intention, but afterwards by doing away and rendering void the repealing act, its intention cannot be construed otherwise than to give new life to the act repealed.—(*Hanson's Laws of Maryland.*)