Dunlop, the plaintiff could not maintain an ejectment. 6. That when no adequate relief exists at law, a court of equity will interpose its authority, to protect an equitable estate, and by analogy, will give such full relief as a court of law would, had the title been legal. *7. That the demurrer ought to be overruled. [*356

Marshall, Ch. J.—If your title is good at law, you have no case in equity. If you have any title, it is at law. If you have no title at law, you can have none in equity. The equitable estate is merged in the grant. This is an attempt to substitute a bill in equity for an action of trespass.

Decree affirmed.

The Penobscot. (*a*)

The Brig Penobscot *v.* United States.

Non-intercourse law.

Under the non-intercourse law, a vessel, in March 1811, had no right to come into the waters of the United States to inquire whether she might land her cargo.

This was an appeal from the sentence of the Circuit Court of the district of Georgia, which affirmed that of the district court, condemning the brig Penobscot, and her cargo of salt, for a violation of the acts of congress, interdicting commercial intercourse with Great Britain and her dependencies (viz., the acts of March 1st, 1809, 2 U. S. Stat. 528; May 1st, 1810, Ibid. 605; the president's proclamation of November 2d, 1810, and the act of 2d March 1811, Ibid. 651).

By the 4th section of the act of March 1st, 1809, it was not lawful to import into the United States, or the territories thereof, any goods, wares or merchandise whatever, from any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, nor from any port or place in the actual possession of Great Britain; nor to import into the United States, &c., from any foreign port or place whatever, any goods, wares or merchandise of the growth, produce or manufacture of Great Britain or Ireland, &c. By the 5th section, such goods so imported (or put on board any vessel, &c., with intent of importing, &c.), as *well as all other articles on board, belonging to the same owner, are liable to forfeiture, and by the 6th section, the vessel is subject to forfeiture, if the goods are laden on board, with the knowledge of the owner or master of the vessel. [*357

The act of May 1st, 1810, and the president's proclamation of November 2d, 1810, announcing that France had so revoked the edicts of Berlin and Milan, as that they ceased to violate the neutral commerce of the United States, and the act of March 2d, 1811, are only referred to, as reviving and enforcing against Great Britain, the provisions of the act of March 1st, 1809.

The claim of the owners of the vessel and cargo stated, that the vessel sailed from Antigua, on the 12th of February 1811, and being crank and not sea-worthy, put into Turk's Island, for ballast, where she took in a load of

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(*a*) February 22d, 1813. Absent, Todd, Justice.

salt, being informed, by an American vessel, that there was no law to prohibit it. That she sailed from Turk's Island, for the port of Savannah, intending to stand off and on, to get information to know whether she might be permitted to come in or not. That on her approach to the harbor, a gale of wind prevented boats coming to her, and forced her, for the safety of the lives of the crew and the vessel, to make a harbor at Cockspur Island. That before she got a harbor, she was boarded by a revenue-cutter, who took possession of her, and forcibly carried her into port. That the salt was not taken in, with intent to violate the laws of the United States, but with the express intention and determination, if they found the importation into the United States to be unlawful, to bear away to some foreign port. She sailed from Castine, in the province of Maine, for Antigua, in December 1810, and arrived off Savannah, on the 15th of March 1811.

There was evidence that the vessel might have called at Amelia Island, in the course of her voyage, where she might have gotten information of the non-intercourse law being in force. That she spoke a vessel of the United States, just before she came in, but made no inquiry as to the law. That the agent of the owners wrote several letters, to be delivered to the master at sea, informing him of the law, and warning him to go to some foreign port, but they were not delivered. The evidence respecting *the necessity of coming in, by reason of stress of weather, did not seem to be sufficiently proved.

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The cause was argued by *P. B. Key*, for the appellants, and *J. R. Ingersoll*, for the United States. (*a*)

It was contended by *Key*, for the appellants, 1. That the cargo was not taken on board, with intention of importing the same into the United States. 2. That the vessel was forced into Cockspur Harbor, by stress of weather, to save the vessel and the lives of the crew; and while so making the harbor, she was boarded by a revenue-cutter, and seized, and forced into the port of Savannah. 3. That she had a right to come into the waters of the United States, to make inquiry whether she could be permitted to enter, and before a reasonable time had expired, she was forcibly seized and carried in. 4. That coming into the waters of the United States, under either of the above circumstances, does not constitute an importation, without other and further voluntary acts on the part of the vessel.

February 23d, 1813. MARSHALL, Ch. J., stated the opinion of the court to be, that the vessel came at her peril; that she was bound to get information; but was negligent in not calling at Amelia Island, and in not inquiring of the vessel which she spoke off the port of Savannah.

Sentence affirmed.

(*a*) The Reporter was absent.