right. Each must be pursued according to the general rule of law, unless a different rule be prescribed by statute; and where the remedy is limited to a particular form of action, all the general incidents of that action must attach upon it.[1] Upon any other construction, it would follow, that the case would be without any limitation at all; for it would be quite impossible, upon any acknowledged principles, when a right had assumed the shape of a claim *in personam*, to attach to it a limitation which exclusively applied to the reality. Now, the statute of limitations has been emphatically declared a statute of repose, and we should not feel at liberty to break in upon its general construction, by allowing an exception which has not acquired the complete sanction of authority.

It is further contended, that by the operation of the act of 1791, ch. 45, Burnes must be considered as a mere trustee of Beatty, and trusts are not within the statute of limitations. We are of a different opinion. The land in controversy was claimed by Burnes in his own right, and adversely to the plaintiff's intestate. The money was received by him for his own use, and in his own right, as an original proprietor. He never admitted or acknowledged the title of the plaintiff, and no claim or demand was ever made upon him in his lifetime. So far then from being received in trust, it was expressly received under a peremptory denial of any trust or right in the opposite party. Nor was the statute meant to make the adverse possessor, without title, a trustee for the party having title. It only substituted the action of *assumpsit* for the ordinary legal remedy by ejectment; and the adverse possessor of the land could no more be deemed a trustee of the money, than he could be deemed a trustee of the land itself, for the benefit of the rightful owner, against whom he held by an adverse title.

The court are, therefore, of opinion, that the statute of limitations is a good bar, and therefore, that the judgment must be affirmed.

Judgment affirmed.

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*Harford, claimant of 480 Pieces of Cotton Bagging *v.* United States. (*a*) [*109

Landing of imported goods.

The penalty of the 50th section of the collection law of 2d March 1799, which requires a permit for the landing of goods imported, applies to goods the importation of which was prohibited by law.

This was an appeal from the Circuit Court for the district of South Carolina. The case was submitted, without argument.

Story, J., delivered the opinion of the court, as follows:—The principal question in this case is, whether goods and merchandise, the importation of which into the United States was prohibited by the act of 18th of April 1806 (2 U. S. Stat. 379), were within the purview of the 50th section of the collection act of 2d of March 1799 (1 Ibid. 665), so that the unlading of them without a permit, &c., was an offence subjecting them to forfeiture.

(*a*) March 1st, 1814. Absent, Johnson, Justice.

[1] See Metz v. Hipps, 96 Penn. St. 15.

It has been contended on behalf of the claimant, that they were not within the purview of the 50th section, because that section applies only to goods, wares and merchandise, the importation of which is lawful. To this construction, the court cannot yield assent. The language of the 50th section is, that "no goods, wares or merchandise, &c., shall be unladen, &c., without a permit;" it is, therefore, broad enough to cover all goods, whether lawful or unlawful. The case, being then within the letter, can be extracted from forfeiture only by showing that it is not within the spirit of the section. To us, it seems clear, that the case is within the policy and mischief of the collection act, since the necessity of a permit is some check upon unlawful importations, and is one reason why it is required. The act of 1806 does not profess to repeal the 50th section of the collection act, as to the prohibited goods, and a repeal by implication ought not to be presumed, unless from the repugnance of the provisions, the inference be necessary and *unavoidable. No such manifest repugnance appears to the court; the provisions may well stand together and indeed serve as mutual aids. In fact, the very point now presented was decided by this court, in the case of *Locke, claimant*, v. *United States*, at February term 1813 (7 Cr. 339). The judgment of the circuit court is affirmed, with costs.

*110]

Judgment affirmed.

Armitz Brown *v.* United States.

Confiscation of enemy's property.

British property, found in the United States, on land, at the commencement of hostilities with Great Britain, cannot be condemned as enemy's property, without a legislative act, authorizing its confiscation.[1] The act of the legislature declaring war, is not such an act.

Timber, floated into a salt-water creek, where the tide ebbs and flows, leaving the ends of the timber resting on the mud, at low water, and prevented from floating away at high water by booms, is to be considered as landed.

The Cargo of The Emulous, 1 Gallis. 562, reversed.

This was an appeal from the sentence of the Circuit Court of Massachusetts, which condemned 550 tons of pine timber, claimed by Armitz Brown, the appellant.

D. Davis, for the appellant.—This is an appeal from the circuit court of Massachusetts, in which court, the property, consisting of about 550 tons of pine timber, twelve thousand staves, and eighteen tons of lathwood, were condemned. The libel states, that this cargo was loaded on board the Emulous, at Savannah, April 9th, 1812; that the cargo belonged to British subjects; that the ship departed for Plymouth, in England, April 18th, in the same year, and put into New Bedford for repairs; and that the cargo was there unladen, and remained there, until seized by Delano, as well on his own behalf, as on behalf of the United States. As to some of the allegations in the libel, there is no evidence whatever to support them; the ship never departed for Plymouth, never put into New Bedford for repairs. The facts are these:

The property in question was the cargo of the American ship Emulous,

[1] Conrad *v.* Waples, 96 U. S. 279.