tract, he must still bring his suit within the reasonable time fixed by the legislative authority, that is, by the statute of limitations.

We have no doubt that the disability to sue imposed on the plaintiff by the war relieves him from the consequences of failing to bring suit within twelve months after the loss, because it rendered a compliance with that condition impossible and removes the presumption which that contract says shall be conclusive against the validity of the plaintiff's claim. That part of the contract, therefore, presents no bar to the plaintiff's right to recover.

As the Circuit Court founded its judgment on the proposition that it did, that judgment must be

REVERSED AND THE CASE REMANDED FOR A NEW TRIAL.

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## REICHE *v.* SMYTHE, COLLECTOR.

Where an act of 1861 exempted from duty "animals of all kinds; birds, singing and other, and land and water fowls," and a later act levied a duty of 20 per cent. "on all horses, mules, cattle, sheep, hogs, *and other live animals*," *held* that birds were not included in the terms "other live animals." The second statute must be read by the light of the first.

ERROR to the Circuit Court for the Southern District of New York; the case being thus:

The 23d section of the act of March 2d, 1861, chap. 68,* provides, that

"The importation of the articles hereinafter mentioned and embraced in this section shall be exempt from duty:

"'Animals, living, of all kinds; birds, singing and other, and land and water fowls.'"

This provision being in force, an act of May 16th, 1866,† was passed, which provided—

"That on and after the passage of this act there shall be

* 12 Stat. at Large, 193. † 14 lb. 48.

levied, collected, and paid, on all *horses*, *mules*, *cattle*, *sheep*, *hogs*, and *other live animals* imported from foreign countries, a duty of 20 per centum *ad valorem*."

In this state of legislation, and after the passage of the second of the above-mentioned acts, one Reiche imported into New York a lot of canary and other birds, on which the collector exacted a duty of 20 per centum *ad valorem*, which was paid under protest. Reiche brought this suit in the court below to recover the money. The only inquiry was whether living birds at the date of this importation were dutiable.

The court below decided that they were, and judgment being given accordingly the importer brought the case here.

*Mr. B. H. Bristow, Solicitor-General, and Mr. C. H. Hill, Assistant Attorney-General, for the United States, and in support of the ruling below:*

It may be urged on the other side that inasmuch as Congress, in the act of 1861, named "animals, living, of all kinds," and in the same section also mentioned "birds, singing and other," &c., the intention was to recognize a restricted meaning of the word "animals," as not including "birds," and to introduce and sanction such restricted meaning as a definition of the terms "living animals" and "live animals" when used in the revenue laws; so that when, in the act of 1866, a duty was imposed upon all live animals, without mentioning birds, the legislature must be understood to have intended that the latter should not be included, but should remain exempt.

The answer is, that the various duty acts are too full of examples of tautology and repetition to warrant such a conclusion; that they often show needless particularity in enumeration, accompanied by general terms plainly including the same things also mentioned in detail. Thus, in section 22 of the act of 1861, a duty is imposed upon "articles worn by men, women, or children, of whatever material composed," &c.; and yet, notwithstanding these comprehensive terms, there follow, in the same section, numerous particu-

lars already clearly embraced in those terms, as "bracelets, braids, chains, curls, ringlets, braces, suspenders, caps, hats," &c. Like repetitions are found in the 13th section of the act of July 14th, 1862,* and in schedule C, in the act of July 30th, 1846.†

The phrase, all "other live animals," as employed in the act of 1866, is clear, comprehensive, and explicit. The addition of the designation of birds, in a single instance, in a former act, is a casual circumstance of too slight significance to warrant a practical interpolation, in the later special statute, of an exception to its plain import.

*Mr. Frederick Chase, contra.*

Mr. Justice DAVIS delivered the opinion of the court.

The act of 1866 in its terms is comprehensive enough to include birds, and all other living things endowed with sensation and the power of voluntary motion, and if there had not been previous legislation on the subject there might be some justification for the position, that Congress did not intend to narrow the meaning of the language employed. If it be true that it is the duty of the court to ascertain the meaning of the legislature from the words used in the statute and the subject-matter to which it relates, there is an equal duty to restrict the meaning of general words, whenever it is found necessary to do so, in order to carry out the legislative intention.‡ And it is fair to presume in case a special meaning were attached to certain words in a prior tariff act, that Congress intended they should have the same signification when used in a subsequent act in relation to the same subject-matter.

This act of 1861 was in force when the act of 1866—the act in controversy—was passed, and it will be seen that birds and fowls are not embraced in the term "animals," and that they are free from duty, not because they belong to the class of "living animals of all kinds," but for the

* 12 Stat at Large, 555. † 9 Id. 44.

‡ Brewer *v.* Blougher, 14 Peters, 178.

reason that they are especially designated. It is quite manifest that Congress, adopting the popular signification of the word "animals," applied it to quadrupeds, and placed birds and fowls in a different classification. Congress having, therefore, defined the word in one act, so as to limit its application, how can it be contended that the definition shall be enlarged in the next act on the same subject, when there is no language used indicating an intention to produce such a result? Both acts are *in pari materiâ*, and it will be presumed that if the same word be used in both, and a special meaning were given it in the first act, that it was intended it should receive the same interpretation in the latter act, in the absence of anything to show a contrary intention.*

If it be used in a different sense in the act of 1866, its meaning instead of being extended is narrowed, for all animals not *ejusdem generis* "with horses, mules, cattle, sheep, and hogs," are excluded from the operation of the revenue laws. By the act of 1861, living animals of all kinds, whether domesticated or not, could be imported without paying a duty. The law of 1866 steps in and imposes a duty on domestic quadrupeds, leaving the act of 1861 applicable to all other quadrupeds, and to birds and fowls.

The case of *Homer* v. *The Collector*,† is in principle not unlike this. The object of that suit was to ascertain whether, under the tariff act of 1857, almonds were placed in the category of dried fruits, on which a small duty was imposed. It was contended as the article was popularly classed among the dried fruits of the table, with raisins, dates, &c., and as it was not named specifically in the changes in the act of 1857, that it properly belonged to the schedule providing for dried fruits. But the court held that as a duty had been imposed on almonds, *eo nomine*, in previous tariff acts, the article was not, for revenue purposes, within the general term of dried fruit, although in popular language and commercial usage such was its signification.

JUDGMENT REVERSED, AND A VENIRE DE NOVO AWARDED.

* Dwarris on Statutes, pp. 701–766.

† 1 Wallace, 486.