

It is sometimes said that such and such a case is an "exception" to the *ejusdem generis* rule. This seems an incorrect way of looking at the matter, and in such cases it should rather be said that on the construction of the document the generality of the words in question could not be restricted. *Iverson v. Gassiot* (1853, 3 D.M. & G. 958) is an illustration of this. A debtor assigned all his stock-in-trade, etc., and "effects whatsoever and wheresoever" to his creditors, "except the wearing apparel" of the assignor. The question was whether his contingent interest in the residue of a testator's estate passed by the deed. It was held that it did pass. Lord Justice Knight Bruce said, referring to the absence of any "restrictive context": "I have looked in vain for such a context, and, not finding it, I must hold that the words ought to be understood . . . as including this property." Lord Justice Turner said the effect of the exception of the wearing apparel was "that all the assignor's property, with that exception, was intended to pass." The mention of the exception, in fact, strengthened the literal meaning of the general words, according to the maxim *Exceptio firmat regulam in casibus non exceptis*—or The exception proves the rule.

The application of the doctrine of *ejusdem generis* to the construction of statutes has been raised in the Courts quite recently with regard to more than one statute—the Increase of Rent and Mortgage Interest (War Restrictions) Act 1915 and the Customs Consolidation Act 1876. Neither of these is a penal Act, but both may be classed as remedial, and it seems possible that, in regard to the restriction of general words under the doctrine of *ejusdem generis*, there may be a distinction between remedial and penal Acts. In the case of a remedial Act the natural tendency of the judiciary is to make the scope of the statute as wide as reasonably may be, and so give an extensive meaning to general words. The natural tendency in the case of a penal Act is just the contrary—to restrict the scope of the statute and give a narrow meaning to general words, so that punishment may not be inflicted unless the Act alleged to be penal is in the plainest terms declared by the Legislature to be so.

A good example of a penal statute—outside ordinary criminal statutes—is the Sunday Observance Act 1677. The persons to