

Pardoning it for the Time past, this is in Effect to forbid it for the Time to come l. 22. ff. de legib. 5. Laws in Favour of that which the publick Good, Humanity, Religion, the Liberty of making Contracts or Settlements, or the like Motives render favourable, and those made in Favour of any Persons, are to be interpreted in as large an Extent, as the Favour of these Motives, joined with Equity is able to give them; and ought not to be interpreted strictly, or applied in such a Manner, as to be turned to the Prejudice of those Persons in whose Favour they were conceived l. 25. ff. de leg. 2. l. 6. C. cod. l. 69. §. 1. ff. de cond. et dem. l. 49. in fin. ff. de relig. et sumpt. fin. Such favourable Laws founded on natural Equity, may have full Extent given them in casu dubio, without Prejudice to the jus quaesitum of particular Persons.

But such Extension is not allowed where it appears that the Lawgivers had industriously omitted the parallel Case. Thus a Year's Rent was found not due by an Appraiser to the Superior. Because the Act 6. Par. 23. §. 6. abates to the Superior a Year's Rent from Appraisings, and the next Act in the same Parliament concerning Liquidations mentions Nothing of a Year's Rent, tho' it relate to the former Act concerning Appraisings, and so seem to have designedly omitted it 21 July 1686. ¹⁶⁸⁶ contra L. Clifton. Therefore notwithstanding the Parity of Reason, a new Law (Act 10. Par. 2. Ch. 2.) was found necessary for inhibiting the Superior to a Year's Rent from Appraisings. In other Cases also express Statutes have been made for extending former Laws ex paritate rationis ob maiorem evidentiam. Thus after the Laws (Act 17. Par. 13. Act 10. Par. 10. §. 6. allowing Letters of Horning to pass on Decrets of Sheriffs Stewarts Bailiffs &c. a Statute (Act 29. Par. 1. Sect. 1. Ch. 2.) was made to authorize the raising of Letters of pouding upon all such Decrets.

Lawyers say that Favour is not nomen juris, and that in Law non datur casus pro amicis. All Persons ought to be upon the Level, or of equal Consideration in the Eye of the Law, and none more favoured than others.

Parallel Cases omitted as industrious

A restrictive Interpretation, is a confining the general Terms of a Law by the Reason thereof, when the Lawgiver is supposed to have intended less than the Words ~~themselves~~ do import. Hence comes the saying *capitula legis ratione cessat quod disposita*; when the Reason and Motive of a Law ceaseth, the Limitation should not take Place. Thus a Sentence which begins and ends with specifying Persons and Things of an inferior Rank, ought not to be extended by the general Words, and *in no other Person or Act whatsoever* &c. to superior Persons or Things not particularly expressed Code 2. Rep. 46. General Words in a Law are still to be understood in subjects *habili et capaci*. Thus when no Excuse whatsoever is declared to free from a Fine for not communicating once a Year when required to do it by the Pastors Act 17. Par. 16. §. 6. Yet Disability to travel, Madnesse or the like Incapacity, would be ^{excuse} ~~an excuse~~ sufficient to excuse from Fining on such Account. *Milkenie Observ. on d. Act 17.* The Seven Years Endurance of cautionary Engagements in any Bond or Contract for Sums of Money (Act 5. Sep. 5. Par. R. W.) is understood only of cautionary Bonds of borrowed Money *vid. infra* Page.

This Kind of restrictive Interpretation is made Use of in Judicial Cases and penal Laws, which appear to have any Hardship in them, and where the Meaning of the Law is not clear: According to the Brocard. *id est in re sunt restringenda, poena molliore* l. 42. l. 11. ff. de penis l. 155. §. ult. ff. de reg. jur. Laws of this Kind are not to be applied beyond what is therein clearly expressed. Because some prohibitory Laws expressly mention Strangers (Act 31. Par. 7. §. 2. Act 40. Par. 6. Q. M. Act 22. Par. 1. §. 6. Sir George Milkenie *Observ. on d. Act 31.*) doubt, if such penal Acts should be extended to Strangers, where these are not mentioned; or if the Words *all Persons* in our Acts of Parliament are to be restricted to Natives.

2. Such a strict Interpretation takes Place in correctory Laws, that is, Laws restraining our natural Liberty or forbidding any Thing that is not in itself unlawful, or derogating in any other Manner from the general Law, which are not extended to any Consequences not clearly expressed therein l. 14. ff. de legib. l. 141. ff. de reg. jur. For we ought to depart as little as we can from the received Laws. Thus Act 4. Par. 2. Sect. 1. Ch. 2. which makes it unlawful to poud upon Decrets for personal Debt till a Charge be given, and the Days of the Charge expired, being restrictive of former Laws and Customs, was not extended, by Parity of Reason, to other Diligences.

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