

## Interpreting Taxing Statutes # 96 – Rank principle

**Where a string of items of a certain level is followed by residuary words, it is presumed that the residuary words are not intended to include items of a different rank. [Ben 23.9]**

### SYNOPSIS

This is a particular application of the ejusdem generis principle. By specifying only items of lower rank the impression is created that higher ranks are not intended to be covered. If they were, then their mention would be expected a fortiori. As Blackstone said:

‘A statute, which treats of things or persons of an inferior rank, cannot by any general words be extended to those of a superior. So a statute, treating of deans, prebendaries, parsons, vicars, and others having spiritual promotion, is held not to extend to bishops, though they have spiritual promotion; deans being the highest persons named, and bishops being of a still higher order’. [Blackstone Commentaries on the Laws of England (1st ed, 1765-1769)]

#### EXAMPLE

In *Re Brickman's Settlement*, [(1981) 1 WLR 1560] in the phrase ‘an officer or examiner of the court or some other person’ in RSC Ord 39 r 4(a) the residuary words were held not to include judges.

#### EXAMPLE

In the phrase ‘copper, brass, pewter, and tin, and all other metals’ in a local Act 1825 the residuary words were held not to include precious metals such as gold and silver. [*Casher v Holmes* (1831) 2 B & Ad 592]

### ***Tapering strings***

The rank principle has been held to apply where the string was regarded as tapering down, and the item in question, though not superior to items at the beginning, was superior to those listed towards the end.

#### EXAMPLE

Where the phrase was ‘horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep or other cattle’ bulls were in *Ex p Hill* held to be excluded from the residuary words. Although not superior to horses, they were regarded as superior to oxen, cows etc.

### ***Necessary disapplication***

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The rank principle does not apply if no items are left for the residuary words to cover but those of higher rank, or as an editor of Blackstone puts it, where ‘the general words would otherwise be entirely void.’

EXAMPLE

Coke gives an example the provision in the Statute of Marlborough [52 Hen 3 (1267)] which lists essoins (excuses for absence) ‘in counties, hundreds, or in courts baron, or in other courts’. Since there were no other courts of lower or equal jurisdiction, the latter words were held to include the king’s courts of record at Westminster. [2 Inst 137]

*Inverse application*

The rank principle may have an opposite application in excluding persons of lower rank from the ambit of residuary words.

EXAMPLE

The Dean of St Pauls was held not to be within the exemption from tithes conferred by the Tithes in London Act 1545 on ‘great men and noblemen and noblewomen’. He was not a nobleman, and the words ‘great men’ applied only ‘to persons superior, certain respects, to noblemen and noblewomen, of which description there are certainly persons in this country’. [St Paul’s (Warden, etc) v Dean of St Paul’s (1817) 4 Price 65 at 79]