provide them, contending that this information was exempt from disclosure by reason of the law-enforcement exception.

In the ensuing litigation, the city argued, reasonably enough, that the information it sought to protect *was* related to law enforcement; its officers must make well-informed hiring decisions, and if the information it obtains and records during the hiring process were readily available to the public, those third parties who provide information about the applicant would be reluctant to speak candidly. The court of appeals nonetheless denied the exemption on grounds of *noscitur a sociis*:

> In three separate instances, the statute links the words law enforcement and prosecutor. The doctrine of construction—*noscitur a sociis*—teaches that "the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute; and that where two or more words of analogous meaning are employed together in a statute, they are understood to be used in their cognate sense, to express the same relations and give color and expression to each other."
>
> Under this rule of construction, we construe the phrases "information relating to law enforcement" and "would interfere with law enforcement" in reference to the type of information that would also "relate to prosecution" or "interfere with prosecution." So doing, we conclude that the phrase "law enforcement," in light of the immediately following words "prosecutor" or "prosecution," evidences an intent by the Legislature to include within the law enforcement exception only that type of information that relates to violations of the law.[10]

Note the slippery reference to *intent* (see § 67), as opposed to meaning. Yet on the whole, such close textual analysis is laudable.

10 86 S.W.3d at 327 (citations omitted).

32. *Ejusdem Generis* Canon

Where general words follow an enumeration of two or more things, they apply only to persons or things of the same general kind or class specifically mentioned (*ejusdem generis*).

The *ejusdem generis* canon applies when a drafter has tacked on a catchall phrase at the end of an enumeration of specifics, as in *dogs, cats, horses, cattle, and other animals*. Does the phrase *and other animals* refer to wild animals as well as domesticated ones? What about a horsefly? What about protozoa? Are we to read *other animals* here as meaning *other similar animals*? The principle of *ejusdem generis* essentially says just that: It implies the addition of *similar* after the word *other*.

This canon parallels common usage. If one speaks of "Mickey Mantle, Rocky Marciano, Michael Jordan, and other great competitors," the last noun does not reasonably refer to Sam Walton (a great competitor in the marketplace) or Napoleon Bonaparte (a great competitor on the battlefield). It refers to other great *athletes*. But perhaps that is too easy an example, since the general term *competitors* is so nondescript that it almost cries out to be given more precise content by the previous words. A more realistic example (and one that the books are full of) is a passage in which the enumeration is followed by *and all other persons* or *and all other property*. Take, for example, a will that gives to a particular devisee "my furniture, clothes, cooking utensils, housewares, motor vehicles, and all other property." In the absence of other indication (of which more below), almost any court will construe the last phrase to include only personalty and not real estate.

The rationale for the *ejusdem generis* canon is twofold: When the initial terms all belong to an obvious and readily identifiable genus, one presumes that the speaker or writer has that category in mind for the entire passage. The fellow who spoke of "other competitors" did so *in the context* of athletes, and that context narrows the understood meaning of the term. And second, when the tagalong general term is given its broadest application, it renders

the prior enumeration superfluous. If the testator really wished the devisee to receive *all* his property, he could simply have said "all my property"; why set forth a detailed enumeration and then render it all irrelevant by the concluding phrase *all other property*? One avoids this contradiction by giving the enumeration the effect of limiting the general phrase (while still not giving the general phrase a meaning that it will not bear). As expressed by Lord Kenyon in a case holding that the statutory phrase *cities, towns corporate, boroughs, and places* applied only to places of the same sort as those enumerated: "[O]therwise the Legislature would have used only one compendious word, which would have included places of every denomination."[1]

Courts have applied the rule, which in English law dates back to 1596,[2] to all sorts of syntactic constructions that have particularized lists followed by a broad, generic phrase. Today American courts apply the rule often.[3] Some examples through the years:

- "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce"—held to include only transportation workers in foreign or interstate commerce.[4]
- "automobile, automobile truck, automobile wagon, motor cycle, or any other self-propelled vehicle not designed for running on rails"—held not to apply to an airplane.[5]
- "trays, glasses, dishes, or other tableware"—held not to include paper napkins.[6]

1 *Rex v. Wallis*, (1793) 5 T.R. 375, 101 Eng. Rep. 210.

2 *Archbishop of Canterbury's Case*, (1596) 2 Co. Rep. 46a, 76 E.R. 519. *See Sandiman v. Breach*, [1827] 7 B. & C. 96 (K.B.) (per Lord Tenterden—the rule of *ejusdem generis* also being known as Lord Tenterden's Rule).

3 Preston M. Torbert, *Globalizing Legal Drafting: What the Chinese Can Teach Us About Ejusdem Generis and All That*, 11 Scribes J. Legal Writing 41, 43 (2007).

4 *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 109, 115 (2001) (per Kennedy, J.).

5 *McBoyle v. United States*, 283 U.S. 25, 26, 27 (1931) (per Holmes, J.).

6 *Treasure Island Catering Co. v. State Bd. of Equalization*, 120 P.2d 1, 5 (Cal. 1941).

- "all personal effects, household effects, automobiles and other tangible personal property"—held not to include cash.[7]
- "soldiers' and sailors' home, almshouse, home for the friendless, or other charitable institution"—held not to include a state hospital.[8]
- "gravel, sand, earth or other material" on state-owned land—held not to include commercial timber harvested on state-owned land.[9]
- Licensing requirement for "the business of a blood boiler, bone boiler, fell-monger, slaughterer of cattle, horses, or animals of any description, soap boiler, tallow melter, tripe boiler, or other noxious or offensive business, trade, or manufacture"—held not to apply to a brickmaker or a small-pox hospital, because they were dissimilar to the listed jobs or businesses.[10]
- Authorization to employ and pay "teachers, . . . janitors, and other employes of the schools"—held not to apply to employment and payment of a lawyer.[11]
- A statute authorizing removal from office for "incompetency, improper conduct, or other cause satisfactory to said board"—held to cover only a cause that related to the incumbent's fitness for office.[12]

Examples of such wordings—and of such holdings—are legion.

An especially interesting case[13] involved South Dakota's Equine Activities Act, which stated that "[n]o equine activity sponsor, equine professional, doctor of veterinary medicine, or any

7 *In re Pergament's Estate*, 123 N.Y.S.2d 150, 153–54 (Sur. Ct. 1953), *aff'd sub nom. In re Pergament's Will*, 129 N.Y.S.2d 918 (App. Div. 1954).

8 *In re Jones*, 19 A.2d 280, 282 (Pa. 1941).

9 *Sierra Club v. Kenney*, 429 N.E.2d 1214, 1222 (Ill. 1981).

10 *Wanstead Local Bd. of Health v. Hill*, (1863) 143 E.R. 190; *Withington Local Bd. of Health v. Manchester Corp.*, [1893] 2 Ch. 19.

11 *Denman v. Webster*, 73 P. 139, 139 (Cal. 1903) (*employes* so spelled).

12 *State ex rel. Kennedy v. McGarry*, 21 Wis. 496, 497–98 (1867).

13 *Nielson v. AT&T Corp.*, 597 N.W.2d 434 (S.D. 1999).