Hastings Law Journal

Volume 17 | Issue 3 Article 15

1-1966

The Validity of San Francisco's Vehicle Repair Ordinance

Gary Snyder

thority to confer additional powers upon the Public Utilities Commission. This authority is "plenary and unlimited,"[37] except for the qualification that such additional powers must be "cognate and germane" to the regulation and control of public utilities.[38] Thus a municipal regulation affecting a matter of statewide concern will be preempted by a power conferred upon the Public Utilities Commission if the two are in conflict. The power to regulate railroad crossings has been conferred upon the Public Utilities Commission and the regulation of these crossings is of statewide concern. Therefore, municipal ordinances which regulate the time for which a train may block a railroad crossing are in conflict with this power and are void.

*Kenneth A. Granberg**

authority of the Legislature to confer upon the Public Utilities Commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the Public Utilities Commission in this Constitution, and the authority of the Legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this Constitution." CAL. CONST. art. XII, § 22.

[37] *Ibid.*

[38] Pacific Tel. & Tel. Co. v. Eshleman, 166 Cal. 640, 656, 702, 137 Pac. 1119, 1124, 1143 (1913).

* Member, Second Year Class.

THE VALIDITY OF SAN FRANCISCO'S VEHICLE REPAIR ORDINANCE

The San Francisco Municipal Traffic Code provides:

> It shall be unlawful for any person, firm or corporation to construct or cause to be constructed or repair or cause to be repaired any vehicle or any part of any vehicle upon any public street except such repairs as may be necessary in case of an accident or breakdown to enable the removal of said vehicle from the street.[1]

While this ordinance is more rigid than the general rule,[2] the congested streets of San Francisco may justify this strictness. However, whatever merit the ordinance has is irrelevant if San Francisco, as a municipal corporation, lacks the power to make and enforce such an ordinance. It is the purpose of this note to demonstrate that the city does indeed lack the necessary power.

This will be attempted in a two-step analysis. First, it will be shown that the subject matter does not constitute a municipal affair. Therefore, the ordinance is

[1] SAN FRANCISCO, CAL., TRAFFIC CODE § 65 (1963).

[2] 60 C.J.S. *Motor Vehicles* § 331 (1949) states that the operator of a motor vehicle generally has the right to stop on a highway and make any repairs so long as he assumes the same duties as would rest on him in the case of a stop for any other purpose (where the vehicle is able to proceed safely under its own power though in need of repairs).

only valid if not in conflict with general law. Second, while the ordinance does not expressly contradict or duplicate general law, it will be shown that it does attempt to make unlawful, behavior which, because of the complete occupation of the field of traffic regulation by State law, has been implicitly sanctioned by general law. The ordinance therefore conflicts with general law and is invalid.

Municipal Power to Regulate in the Field of Traffic Regulation

The power of a municipal corporation in California to make and enforce ordinances in the field of traffic regulation is generally derived from either of two sections in the California constitution, as well as from numerous provisions in the California Vehicle Code. The first relevant section of the constitution states:

> Cities and towns hereafter organized under charters framed and adopted by authority of this [California] Constitution are hereby empowered to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters, and in respect to other matters they shall be subject to and controlled by general laws.[3]

Since San Francisco is a chartered city, if the regulation of vehicles being repaired on its streets is a municipal affair, its vehicle repair ordinance would be valid even if in conflict with general law.

Municipal corporations in California generally base their power to make and enforce ordinances in the field of traffic regulation on another section of the State constitution. That section provides: "Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary and other regulations as are not in conflict with general laws."[4] Thus, even if the regulation of vehicle repair on city streets is not a municipal affair, the vehicle repair ordinance would be valid if it is not in conflict with State law.

Vehicle Repair on City Streets as a Municipal Affair

Unless a subject is strictly an internal business affair of the municipality, it is more likely than not that when presented with the question the court will construe the subject as of statewide concern rather than as a municipal affair.[5] The regulation of the repair of vehicles on city streets is not strictly an internal business affair in California because the city streets belong to the people of the State.[6] Since

[3] CAL. CONST. art. XI, § 6. See also CAL. CONST. art. XI, § 8(j).

[4] CAL. CONST. art. XI, § 11.

[5] See TWA v. City & County of San Francisco, 228 F.2d 473 (9th Cir.), *cert. denied*, 351 U.S. 919 (1956); *Ex parte* Daniels, 183 Cal. 636, 639, 192 Pac. 442, 444 (1920); Lossman v. City of Stockton, 6 Cal. App. 2d 324, 328, 44 P.2d 397, 399 (1935); *cf.* Professional Fire Fighters, Inc. v. City of Los Angeles, 60 Cal. 2d 276, 32 Cal. Rptr. 830, 384 P.2d 158 (1963). For an analytical discussion of the municipal affairs concept see Note, 16 HASTINGS L.J. 265 (1964). For a discussion and example of one kind of problem raised by that concept see Note, 17 HASTINGS L.J. 635 (1966).

[6] *Ex parte* Daniels, 183 Cal. 636, 192 Pac. 442 (1920); See People v. County of Marin, 103 Cal. 223, 37 Pac. 203 (1894); Helmer v. Superior Court, 48 Cal. App. 140, 191 Pac. 1001 (1920); *but cf.* City & County of Denver v. Henry, 95 Colo. 582, 38 P.2d 895 (1934), where the court stated that unlike California's constitution, the Colorado constitution contains no express limitation to the effect that a municipality may not make regulations in conflict with general law. Therefore, while Colorado's "matters of local concern" are broad enough to permit local traffic regulation in

the city streets are not the exclusive property of the municipality, any regulation of their use is not an internal business affair but an affair of interest to all the people of the State.

The construction of off-street parking facilities has been classified as a municipal affair.[7] However, this classification has never been extended to include the regulation of all parking. *Pipoly v. Benson*[8] clarifies the position of parking by stating that while the legislative declaration[9] that traffic should be uniform throughout the State constitutes an express occupation of the entire field of traffic regulation, the Vehicle Code expressly leaves several areas for local control, including the regulation of parking.[10] These areas are left for local control because of these express provisions in the Vehicle Code, not because they are municipal affairs.[11] The legislature has not left the regulation of all parking to local control, but has given local authorities the power to enact and enforce only certain kinds of parking regulations.[12] The extent of legislation on parking, within the Vehicle Code, indicates legislative intent to promote uniform parking regulations throughout the State except in particular matters where local authorities are expressly given regulatory power.[13] The kinds of permissible local parking regulation exist because of express provisions in the California Vehicle Code, not because they are municipal affairs.

Another reason for treating regulation of the repair of vehicles on city streets as a matter of statewide concern, rather than as a municipal affair, is the public policy which favors statewide uniformity in areas where a citizen might reasonably expect it.[14] The legislature's expression that the regulation of traffic is a field where uniformity is desired[15] was probably generated by the belief that this was a field where a citizen might reasonably expect uniformity.[16] Because regulation of vehicle repair on city streets is not an internal business affair of the municipality, and because the regulation of parking is not a municipal affair, and because public policy favors statewide uniformity in the field of traffic regulation, the classification of the regulation of the repair of parked vehicles on city streets as a municipal

conflict with State law, California's "municipal affairs" have been defined far more narrowly.

[7] Mallon v. City of Long Beach, 44 Cal. 2d 199, 211, 282 P.2d 481, 488 (1955); Larsen v. City & County of San Francisco, 152 Cal. App. 2d 355, 313 P.2d 959 (1957).

[8] 20 Cal. 2d 366, 125 P.2d 482 (1942).

[9] CAL. VEHICLE CODE § 21.

[10] Pipoly v. Benson, 20 Cal. 2d 366, 372, 125 P.2d 482, 486 (1942).

[11] *Ibid.*

[12] See CAL. VEHICLE CODE §§ 22500(k) (allowing parking on bridges), 22507 (prohibiting or restricting vehicle parking), 22508 (establishing parking meter zones), 22509 (regulating parking on hills), 22519 (regulation of off-street parking).

[13] Sections on Parking, Removal of Parked Vehicles, and Parking Lots are included in the "Rules of the Road" division of the Vehicle Code. (CAL. VEHICLE CODE §§ 21000-23336.)

[14] *In re* Lane, 58 Cal. 2d 99, 111, 22 Cal. Rptr. 857, 864, 372 P.2d 897, 904 (1962) (concurring opinion); see Blease & O'Connor, Civil Liberties and the Proposed Changes in the Law of Preemption 14-15 (1965) (unpublished report in University of California Law School Library, Berkeley).

[15] CAL. VEHICLE CODE § 21.

[16] See CAL. VEHICLE CODE §§ 21103, 21109, 21111, requiring the local authority to post signs or warnings before a local ordinance may be enforced.

affair is at least doubtful. The rule that if the classification is reasonably doubtful, the doubt must be resolved against the subject's being a municipal affair,[17] discourages a conclusion that the vehicle repair ordinance could be upheld as being within the power of a chartered city to regulate its municipal affairs.

Prohibition of Vehicle Repair on City Streets as in Conflict with General Law

Most State legislation in the field of traffic regulation is found in the California Vehicle Code.[18] This code provides:

> Except as otherwise expressly provided the provisions of this code are applicable and uniform throughout the State and all counties and municipalities therein, and no local authority shall enact or enforce any ordinance on the matters covered by this code unless expressly authorized herein.[19]

Although the Vehicle Code does expressly authorize local authorities to enact and enforce ordinances in several areas,[20] an express provision giving a local authority the power to enact and enforce ordinances regulating the repair of vehicles on city streets is not included.

However, as a general rule municipalities have the power to regulate the use of their streets so long as this regulation does not conflict with general law.[21] Although the regulation of the repair of motor vehicles on city streets is not a municipal affair, the San Francisco vehicle repair ordinance is valid unless it somehow conflicts with State law.

A conflict may arise in one of three ways: where the local ordinance contradicts State law,[22] where it duplicates State law,[23] or where it attempts to regulate in a field occupied by State law to such a degree that the ordinance would necessarily be inconsistent.[24] Prior to the declaration of uniformity and the express

---

[17] Abbott v. City of Los Angeles, 53 Cal. 2d 674, 3 Cal. Rptr. 158, 349 P.2d 974 (1960); City of Salinas v. Pacific Tel. & Tel. Co., 72 Cal. App. 2d 494, 164 P.2d 905 (1946).

[18] The Penal Code also contains regulatory legislation of a generally more serious nature not relevant to this note.

[19] CAL. VEHICLE CODE § 21.

[20] Statutes cited note 12 *supra*; CAL. VEHICLE CODE §§ 21100 (regulating processions, licensing and regulating vehicles for hire, regulating by traffic officers, regulating by control devices), 21101 (designating one-way highways, closing of highways, designating through highways, prohibiting use of particular highways by certain vehicles, closing streets temporarily to conduct driver training programs), 21102 (closing streets dividing school grounds), 22651, 22652 (removal of vehicles by city police and sheriffs, as well as by California Highway Patrol), 21106 (establishing crosswalks), 21109 (regulating traffic in subways, tunnels, bridges and viaducts), 21107, 21108, 21111 (regulating traffic on private roads and within housing projects), 22519 (regulating off-street parking). For a discussion of the requirement for strict construction of such express authorizations see People v. Moore, 229 Cal. App. 2d 221, 40 Cal. Rptr. 121 (1964).

[21] Pipoly v. Benson, 20 Cal. 2d 366, 125 P.2d 482 (1942); *Ex parte* Daniels, 183 Cal. 636, 192 Pac. 442 (1920).

[22] *Ex parte* Daniels, *supra* note 21.

[23] *In re* Sic, 73 Cal. 142, 14 Pac. 405 (1887).

[24] *In re* Lane, 58 Cal. 2d 99, 22 Cal. Rptr. 857, 372 P.2d 897 (1962); Compare *In re* Hubbard, 62 Cal. 2d 119, 41 Cal. Rptr. 393, 396 P.2d 809 (1964).

occupation of the field of traffic regulation by the State as provided in the California Vehicle Code, an ordinance within the field of traffic regulation was valid if it did not attempt to make lawful the performance of an act forbidden by State law or attempt to prohibit what State law affirmatively authorized.[25] A local authority was able to make such new and additional regulations in aid and furtherance of the purpose of State law as seemed fit and appropriate to the necessities of the particular locality.[26]

Apparently rejecting the doctrine of preemption by implication, the court in *Mann v. Scott*[27] declared: "[I]t does not follow that, because the legislature has seen fit to distinguish between urban and rural communities it has thereby impliedly prohibited the enactment of additional local regulations by municipalities in keeping with the purpose of the general law."[28] Ignoring the possible merits of statewide uniformity of regulation, which the doctrine of preemption by implication has been developed to promote,[29] the court stated that it is better to allow municipalities to enact local ordinances in fields where the legislature has assumed a course of extensive prohibitory enactments in aid and furtherance of this general law because of the "special requirements" of urban communities.[30] But because of the judicial and legislative recognition of the increasing vehicular mobility of the California population and the consequent need for uniform statewide traffic regulation, the aid and furtherance principle has been virtually eliminated in the field of traffic regulation. The principle was held inapplicable to the regulation of driving under the influence of intoxicating beverages[31] and to the regulation of speed on city streets,[32] and, therefore, by implication of both of these cases, to the regulation of any matter involving vehicle travel,[33] even before the adoption of a declaration of uniformity and occupation by the legislature. After the legislative declaration of uniformity and occupation[34] had been made, the court in *Pipoly v. Benson*[35] declared that the entire area of traffic regulation ceased to be a matter of local regulation not only because of this declaration, but primarily because of the precedent established in *Ex parte Daniels*.[36]

According to *Pipoly*, only in areas left for local control did local authorities have the power to enact and enforce ordinances. While the Vehicle Code section giving local authorities power to prohibit or restrict the parking of vehicles on

[25] See Mann v. Scott, 180 Cal. 550, 182 Pac. 281 (1919), which refused to consider a 1915 statute expressly limiting the scope of local regulation of speed because it was not in effect at the time of the accident involved in the case.

[26] *In re* Hoffman, 155 Cal. 114, 99 Pac. 517 (1909).

[27] 180 Cal. 550, 182 Pac. 281 (1919).

[28] *Id.* at 557, 182 Pac. at 284.

[29] Blease & O'Connor, *op. cit. supra* note 14; *cf. In re* Lane, 58 Cal. 2d 99, 22 Cal. Rptr. 857, 372 P.2d 897 (1962); Abbott v. City of Los Angeles, 53 Cal. 2d 674, 3 Cal. Rptr. 158, 349 P.2d 974 (1960); Pipoly v. Benson, 20 Cal. 2d 366, 125 P.2d 482 (1942).

[30] Mann v. Scott, 180 Cal. 550, 182 Pac. 281 (1919).

[31] Helmer v. Superior Court, 48 Cal. App. 140, 191 Pac. 1001 (1920).

[32] *Ex parte* Daniels, 183 Cal. 636, 192 Pac. 442 (1920).

[33] Helmer v. Superior Court, 48 Cal. App. 140, 191 Pac. 1001 (1920); *Ex parte* Daniels, *supra* note 32.

[34] CAL. VEHICLE CODE § 21.

[35] Pipoly v. Benson, 20 Cal. 2d 366, 125 P.2d 482 (1942).

[36] 183 Cal. 636, 639, 192 Pac. 442, 444 (1920).

certain streets[37] might be interpreted as a grant of power to prohibit the parking of vehicles being repaired on all city streets, such a liberal interpretation is unlikely. The wording of this section only gives a municipality the power to prohibit or restrict the parking of all vehicles on *certain* streets.[38] A reasonable interpretation of this statute could not enable a local authority to prohibit the parking of certain types of vehicles on all city streets. The rule that in cases of doubtful authority the doubt is resolved against the local authority[39] precludes this liberal interpretation.

However, the San Francisco vehicle repair ordinance falls within an area where the legislature has not only failed to give local authorities the power to enact and enforce ordinances, but also has not itself enacted statewide legislation. The only section in the Vehicle Code mentioning, in effect, parking of vehicles in need of repair applies to unincorporated areas.[40] This factor may favor the validity of the vehicle-repair-parking ordinance if *Mecchi v. Lyon Van & Storage Co.*[41] is followed. That case held: "[W]hen the state confines its exercise of authority to specified highways, there is scope left to the municipal authority, and the exercise of authority within that scope creates no conflict or inconsistency with the legislative scheme."[42]

In expressly referring to *Mecchi*, the court in *Pipoly* stated that this case upheld "the generally recognized right of local authorities to enact additional local regulations,"[43] but went on to hold: "While the principle thus announced is the general rule it does not have application where the Legislature has clearly indicated its intention of occupying the field completely."[44]

Pipoly, in considering the regulation of pedestrian traffic, indicated its concept of what constituted occupation of the field, stating that prior to the legislature's first enactment of regulations dealing with pedestrian rights and duties in 1931, additional local regulation was proper "since pedestrian rights and duties were not at that time within the field covered by the state legislation."[45] The court then stated: "A similar situation was presented in *Mecchi v. Lyon Van & Storage Co.* "[46] This expression seems to indicate that the court in *Pipoly* considered that the area of parking regulation dealt with in *Mecchi* was not within the field covered by State legislation. However, such an interpretation would be erroneous since shortly after this expression the court admitted that there is State regulation

---

[37] CAL. VEHICLE CODE § 22507.

[38] *Ibid.*

[39] Abbott v. City of Los Angeles, 53 Cal. 2d 674, 3 Cal. Rptr. 158, 349 P.2d 974 (1960).

[40] CAL. VEHICLE CODE § 22504: a) Upon any highway in unincorporated areas no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park, or leave the vehicle off such portion of the highway b) This section shall not apply to the driver of any vehicle which is disabled in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle on the roadway.

[41] 38 Cal. App. 2d 674, 102 P.2d 422 (1940).

[42] *Id.* at 681, 102 P.2d at 425.

[43] Pipoly v. Benson, 20 Cal. 2d 366, 373-74, 125 P.2d 482, 486 (1942).

[44] *Id.* at 374, 125 P.2d at 486.

[45] *Id.* at 374, 125 P.2d at 487.

[46] *Ibid.*

on the matter of parking, but that the legislature has permitted local authorities "to make supplementary regulations upon this particular phase of traffic regulation "[47]

Only the regulation of parking on "certain streets or highways" is expressly left to local authorities,[48] not the regulation of certain types of vehicles on all city streets. Since the regulation of the repair of vehicles in city streets is not an area expressly left to local authorities, the vehicle repair ordinance is valid only if this area of traffic regulation is left to local regulation by implication.

Dictum in *Ex parte Daniels*[49] declares that a legislative prohibition of local regulation in a particular field precludes local regulation within this field only if the legislature has also taken some affirmative act and thereby actually occupied the particular field. A mere declaration that local authorities cannot enact or enforce an ordinance on a particular matter without actually providing legislation on this matter to justify such a declaration is an unconstitutional usurpation of the right of a local authority to enact or enforce regulations within its limits not in conflict with general law.[50]

However, the California Supreme Court, in the case of *In re Lane*,[51] held that by the fact that the State had prohibited many activities in the field of the criminal aspects of sexual activity, the entire field was preempted by general law. Extensive prohibitory regulation in the field was held to imply a legislative intent fully to occupy the field and thereby preclude local regulation of conduct not covered by State legislation.[52] But the concurring opinion by Chief Justice Gibson in *Lane*[53] discusses the requirements necessary to make extensive regulation constitute enough of a comprehensive scheme to preempt the subject of the regulation. These requirements include not only quantity, but also scope and quality of State legislation, and they determine whether the legislature intends to occupy a field to the exclusion of local regulations attempting to impose additional requirements in the field.[54]

Chief Justice Gibson's analysis was apparently of some aid in *In re Hubbard*,[55] where the California Supreme Court held that although the legislature had enacted certain statutes in the field of gambling, these were not extensive enough in scope to constitute complete occupation of the field. Because the State legislation was aimed at specific games rather than at the whole field, there was no implication that those games of chance not considered were thereby made lawful.[56] Since the subject matter was not fully covered by general law, and since the State legislation that did exist was not couched in terms clearly indicating that paramount State concern would not tolerate further local action, and since the subject matter was not of such a nature as to make the need for statewide uniformity out-

[47] *Ibid.*

[48] The grant of power is found in CAL. VEHICLE CODE § 22507.

[49] 183 Cal. 636, 641, 192 Pac. 442, 445 (1920).

[50] *Ibid.*

[51] 58 Cal. 2d 99, 22 Cal. Rptr. 857, 372 P.2d 897 (1962).

[52] *Ibid.*, see Blease & O'Connor, *op. cit. supra* note 14, at 9.

[53] 58 Cal. 2d 99, 106, 22 Cal. Rptr. 857, 861, 372 P.2d 897, 901 (1962) (concurring opinion).

[54] See Blease & O'Connor, *op. cit. supra* note 14, at 9.

[55] 62 Cal. 2d 119, 41 Cal. Rptr. 393, 396 P.2d 809 (1964).

[56] *Ibid.*

weigh the benefits of local regulation, gambling remained an area where local regulation was permitted.[57]

The field of the regulation of the criminal aspects of sexual activity in *Lane* and the field of traffic regulation are, according to judicial interpretation, fields where the need for statewide uniformity outweighs the benefits of local regulation. The legislature has also expressed its desire to provide statewide uniformity in the field of traffic regulation. With the benefit of an express declaration of legislative intent to occupy the field of traffic regulation,[58] the court in *Pipoly* declared that except where the Vehicle Code left regulatory power in local authorities, traffic regulation ceased to be a field where local authorities could enact and enforce ordinances.[59]

Pipoly stated that local regulation was permitted not only where the Vehicle Code expressly permits supplementary regulation but also where a particular matter was not within the field covered by State legislation.[60] The vehicle repair ordinance under consideration here deals with a matter not expressly covered by State law. However, if the *Lane* approach to preemption is applied to the field of traffic regulation, the field must be considered covered by such extensive legislation that conduct not expressly made unlawful by the State is implicitly lawful for two reasons: first, because of the absence of State legislation to the contrary in this field, and second, because the nature of the subject makes the need for statewide uniformity outweigh the possible benefits of local regulation.

The *Lane* interpretation seems to upset the earlier *Pipoly* concept of the effect on local regulation when the State occupies a field. According to *Pipoly*, a local authority can regulate in a field occupied by State legislation if a particular matter within the field is not covered by State legislation.[61] Under the *Lane* rule, if a field is occupied by State legislation there is no room for local regulation unless the legislature expressly provides to the contrary.[62] Any matters within such a field not covered by State law are implicitly lawful and not subject to local prohibition.[63]

However, the "matters" referred to in *Pipoly* included the broad areas of parking and pedestrian traffic,[64] rather than narrower "matters," such as the regulation of the repair of motor vehicles on city streets. Using *Pipoly's* concept of "matter," the Vehicle Code's preemption of "matters covered by this code,"[65] would exclude from preemption any significant area of traffic regulation not covered by the Vehicle Code, but would not save from preemption matters constituting lesser included parts of an area covered by the Vehicle Code. Since the area of parking regulation is now covered by the Vehicle Code,[66] the lesser included matter of the regulation of the repair of parked vehicles is a matter covered by the Vehicle Code.

---

[57] *Id.* at 128, 41 Cal. Rptr. at 399, 396 P.2d at 815.

[58] CAL. VEHICLE CODE § 21.

[59] Pipoly v. Benson, 20 Cal. 2d 366, 125 P.2d 482 (1942).

[60] *Ibid.*

[61] *Ibid.*

[62] *In re* Lane, 58 Cal. 2d 99, 22 Cal. Rptr. 857, 372 P.2d 897 (1962).

[63] *Ibid.*

[64] Pipoly v. Benson, 20 Cal. 2d 366, 125 P.2d 482 (1942).

[65] CAL. VEHICLE CODE § 21.

[66] Statutes cited note 12 *supra.*

Even if the *Pipoly* interpretation would find that the matter of regulation of the repair of parked vehicles is not a matter covered by the Vehicle Code, *Lane* has apparently modified this interpretation. Where the quantity, quality, and scope of state legislation is so extensive as to occupy the entire field of regulation, unless there is a declaration that complete occupation is not intended, as, for instance, was the case in *In re Iverson*,[67] a local authority lacks the power to legislate in the field except regarding matters expressly permitted by the legislature. Since the regulation of the repair of motor vehicles on city streets is within a field completely occupied by State law and is not expressly left for local enactment and enforcement, San Francisco's vehicle repair ordinance is invalid and unenforceable.

*Gary Snyder**

[67] 199 Cal. 582, 250 Pac. 681 (1926), where the statute expressly provided that nothing in it "shall be construed as limiting the power of any city to prohibit the manufacture, sale, transportation or possession of intoxicating liquors for beverage purposes." Cal. Stat. 1921, ch. 80, § 4, at 79.

* Member, Second Year Class.