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OPINION	:	No. 82-705
of	:	SEPTEMBER 29, 1983
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THE HONORABLE GILBERT W. BOYNE, COUNTY COUNSEL, STANISLAUS COUNTY, has requested an opinion on the following questions:

1. Are the offices of county planning commissioner and city planning commissioner of a city in the same county incompatible offices?

2. May a county board of supervisors and city council of a charter city within the county provide by coordinate legislation for the simultaneous holding of these incompatible offices?

CONCLUSIONS

1. The offices of county planning commissioner and city planning commissioner of a city in the same county are incompatible offices.

2. A county board of supervisors and city council of a charter city within the county may provide by coordinate legislation for the simultaneous holding of these incompatible offices.

ANALYSIS

Under the laws governing local planning (Gov. Code, § 65100 et seq.) each county and city establishes a planning agency which may be a department, commission, the legislative body, or any combination thereof. (Gov. Code, § 65100.) Section 65150 of the Government Code provides:

> "When a county or city planning commission is created, the organization thereof, the number of members thereof, their terms of office and the method of their appointment and removal, shall be as provided by local ordinance; provided, however, that each county or city planning commission shall have at least five (5) members."

Stanislaus County[1] has established by ordinance a county planning commission consisting of nine members. Our focus herein is upon that portion of the ordinance which provides that:

> "One member [of the county planning commission] . . . shall be a member of the City of Modesto Planning Commission appointed upon recommendation of the Council of the City of Modesto."

We are informed that this portion of the ordinance was enacted by the county board of supervisors with the concurrence of the Modesto City Council[2] to facilitate county and city cooperation in planning, zoning, and subdivision matters. The following questions are thus presented: (1) whether the offices of county planning commissioner and city planning commissioner in the same county are incompatible under the common law doctrine which prohibits the simultaneous holding of incompatible offices, and (2) if so, whether the county board of supervisors and the city council may provide for the simultaneous holding of such offices notwithstanding the common law rule.

When the territory now comprising the State of California was under Mexican dominion, its judicial system was that of the Roman (or Civil) law, as modified by Spanish and Mexican legislation. (*Fowler* v. *Smith* (1852) 2 Cal. 568.) Upon extended deliberation (cf. Report on Civil and Common Law of the Senate Committee on the

[1] The County of Stanislaus is a general law county.

[2] The City of Modesto is a charter city.

Judiciary (Feb. 27, 1850) 1 Cal. 588), the Legislature, at its first session following the formation of a state government, adopted the common law of England as the basis of the state's jurisprudence. (*Fowler* v. *Smith*, *supra*.)[3] The enactment is now codified as section 22.2 of the Civil Code:

> "The common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this state, is the rule of decision in all courts of this State."

In 62 Ops.Cal.Atty.Gen. 615, 616 (1979) we succinctly stated the common law doctrine respecting incompatibility of public offices:

> "Under the traditional common law rule, a public officer who is appointed or elected to another public office and enters upon the duties of the second office, automatically vacates the first office if the two are incompatible. *People ex rel. Chapman* v. *Rapsey*, 16 Cal.2d 636, 644 (1940). Offices are incompatible, in the absence of statutes suggesting a contrary result (e.g., the consolidation statutes, Gov. Code §§ 24300, 24304; see 23 Ops.Cal.Atty.Gen. 22, 24 [1954]), if there is any significant clash of duties between the offices, if the dual office holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other. 16 Cal.2d at 640-644; 38 Ops.Cal.Atty.Gen. 113 (1961)."

(See also 64 Ops.Cal.Atty.Gen. 288, 289 (1981); 64 Ops.Cal.Atty.Gen. 137, 138-139 (1981); 63 Ops.Cal.Atty.Gen. 623 (1980); 63 Ops.Cal.Atty.Gen. 607, 608 (1980).) In the last cited opinion, it was concluded, upon an analysis of the clashes of duties and loyalties which could arise if the same individual attempted to be simultaneously involved in planning matters pertaining to both the county and a city in the county, that the offices of county planning commission and city *councilman* were incompatible. It was noted that a councilman, as a member of the legislative body of the city is required to review and approve proposals of the city planning commission, as well as make other planning decisions. A fortiori, the offices of county planning commissioner and city planning

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[3] The common law comprises the embodiment of those broad and comprehensive unwritten principles, inspired by natural reason and ethical incite, relating to the government and security of persons and property, which derive their authority solely from the usages and customs of immemorial antiquity, particularly the ancient law of England, and from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs. (*Western Union Tel. Co.* v. *Call Pub. Co.* (1901) 181 U.S. 92; *Lux* v. *Haggin* (1886) 69 Cal. 255, 385; and see *Rodriguez* v. *Bethlehem Steel Corp.* (1974) 12 Cal.3d 382, 393.)

commissioner are incompatible. As noted in 63 Ops.Cal.Atty.Gen., *supra*, at 610, ". . . it takes little imagination to see that county planning will significantly impact upon city planning, and vice versa . . . ." (Cf. 64 Ops.Cal.Atty.Gen. 288, *supra*, offices of county planning commissioner and water district director in same territory, incompatible; 58 Ops.Cal.Atty.Gen. 323 (1975), same; Atty.Gen. Unpub. Op. I.L. 74-223, office of city planning commissioner and state highway commissioner, incompatible.) As stated in the last cited unpublished opinion: "What is best for the state in highway location may differ significantly from what . . . is best for the . . . city itself." (*Id.*, at 6.) Similarly, what is best for the county in its planning activities may differ significantly from what is best for the city in its planning activities covering the same territory. Accordingly, it is concluded that the offices of county planning commissioner and city planning commissioner of a city in the same county are incompatible.

We proceed to the second inquiry whether the county board of supervisors and city council may provide for the simultaneous holding of such offices. Since, at common law, the assumption of the second public office automatically vacates the first if the two are incompatible, the effect of the common law may be obviated only upon the adoption by the city of enabling legislation. The intended result may not be accomplished by the unilateral action of the county. (Cf. *Ex parte Pfirrmann* (1901) 134 Cal. 143, 145; *In re Knight* (1921) 55 Cal.App. 511.)

As a general proposition, a city or county government possesses and can exercise only such powers as are granted it by the constitution or statutes, together with those powers as arise by necessary implication from those expressly granted. (*Myers* v. *City Council of Pismo Beach* (1966) 241 Cal.App.2d 237, 240; *Byers* v. *Board of Supervisors* (1968) 262 Cal.App.2d 148, 157; 65 Ops.Cal.Atty.Gen. 11, 13 (1982); 62 Ops.Cal.Atty.Gen. 70, 75 (1979).)[4]

We examine initially the constitutional legislative power of a charter city. Section 5 of article XI of the California Constitution provides:

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[4] With respect to counties, Government Code section 23003 provides:

"A county is a body corporate and politic, has the powers specified in this title, and such others necessarily implied from those expressed."

Government Code section 25207 provides:

"The board may do and perform all other acts and things required by law not enumerated in this part, or which are necessary to the full discharge of the duties of the legislative authority of the county government."

(*San Joaquin Employees' Assn., Inc.* v. *County of San Joaquin* (1974) 39 Cal.App.3d 83, 89.)

"(a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.

"(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees."

Subdivision (a) of section 5 provides a direct grant of constitutional power to "make and enforce all ordinances and regulations in respect to municipal affairs, subject only to [the] restrictions and limitations provided in their several charters . . . ." Hence, charter provisions, ordinances or regulations relating to matters which are purely "municipal affairs" prevail over general laws covering the same subject, while charter cities remain subject to and controlled by applicable general laws of statewide concern. (*Baggett* v. *Gates* (1982) 32 Cal.3d 128, 136; 65 Ops.Cal.Atty.Gen. 383, 386-388 (1982); 64 Ops.Cal.Atty.Gen. 234, 236 (1981).) Thus, a charter city has plenary powers with respect to municipal affairs not expressly forbidden to it by the state Constitution or the terms of the charter; not only must any limitations on municipal power be express, they must be clear and explicit, and no restriction on the exercise of municipal power may be implied. (*Hiller* v. *City of Los Angeles* (1961) 197 Cal.App.2d 685, 689; 65 Ops.Cal.Atty.Gen., *supra*, 393.)

Since the effect of the common law doctrine regarding the simultaneous holding of incompatible public offices is, as previously discussed, the vacation or forfeiture of the first office (city planning commissioner), the specific issue presented concerns the constitutional authority of a city respecting the termination or removal of municipal officers. Subdivision (b) of section 5, article XI, provides a charter city with plenary

authority not expressly forbidden to it by the Constitution or the terms of the charter respecting, inter alia, the removal of municipal officers whose compensation is paid by the city, irrespective of whether the duties of an officer are exacted by the charter or imposed by state law. (Cf. *Butterworth* v. *Boyd* (1938) 12 Cal.2d 140, 147; *Curphey* v. *Superior Court* (1959) 169 Cal.App.2d 261, 268; *Baggett* v. *Gates*, *supra*, 32 Cal.3d at 138-139.) Thus, the authority of a charter city in this respect is not constrained by common law. The city may obviate, by appropriate legislation, the force and effect of the common law doctrine, thereby enabling the county to appoint a city planning commissioner as a county planning commissioner.

Nevertheless, we next consider the legislative authority of a general law county.[5] The power of a county to legislate derives not only through the delegation of legislative power, but also directly from the Constitution. (Cf. *City of Sausalito* v. *County of Marin* (1970) 12 Cal.App.3d 550, 567; 63 Ops.Cal.Atty.Gen. 905, 906 (1980).) With regard to the "police power," California Constitution, article XI, section 7 provides that a county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with *general laws*. The scope of such legislative authority is generally as broad as that of the state itself. (*Birkenfeld* v. *City of Berkeley* (1976) 17 Cal.3d 129, 140; 65 Ops.Cal.Atty.Gen. 267, 271-272 (1982).) Hence, the power of a local agency to legislate with respect to the police power, except as may be in conflict with the general laws, being coextensive with that of the state itself, is not constrained by common law.[6] With respect to the police power, it has been said:

> "The police power has long been described as the inherent power of a body politic to enact and enforce laws for the promotion of the general welfare. [Citations] It has been said that an 'attempt to define its reach or trace its outer limits is fruitless.' [Citation] The scope of the police power changes with changing social and economic conditions. It is 'not a circumscribed prerogative, . . . but is elastic and . . . capable of expansion to meet existing conditions of modern life and thereby keep pace with the social, economic, moral, and intellectual evolution of the human race. . . .'"

(*People* v. *K. Sakai Co.* (1976) 56 Cal.App.3d 531, 535; 63 Ops.Cal.Atty.Gen., *supra*, 906.) Planning, zoning, and land use ordinances making an orderly distribution of activities

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[5] The rule with respect to charter counties is that their legislation may supersede conflicting state law only as to those matters which are in their charter pursuant to constitutional authority. (Cal. Const., art. XI, § 4(g); *Williams* v. *McClellan* (1953) 119 Cal.App.2d 138, 141; 64 Ops.Cal.Atty.Gen. 234, 237-238 (1981); 61 Ops.Cal.Atty.Gen. 512, 519 (1978); 61 Ops.Cal.Atty.Gen. 31, 33 (1978).)

[6] The "general laws" do not encompass the common law. (Discussion, *infra.*)

throughout a community for the benefit, safety, and convenience of its residents, constitute a justifiable exercise of police power. (*Wilkins* v. *San Bernardino* (1946) 29 Cal.2d 332, 337; *People* v. *Johnson* (1954) 129 Cal.App.2d 1, 5; *Berman* v. *Parker* (1954) 348 U.S. 26; *Village of Belle Terre* v. *Boraas* (1974) 416 U.S. 797.) Indeed, it may be argued that the establishment and composition of a planning commission and the appointment of planning commissioners, as well as the actual development of general and specific plans, are integral aspects of planning and fall within the legitimate exercise of the police power.

In any event, and in addition to the constitutional authority of article XI, section 7, *supra*, subdivision (b) of section 1 of that article provides:

> "The Legislature shall provide for county powers, an elected county sheriff, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. *The Legislature or the governing body may provide for other officers* whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees." (Emphasis added.)

The power to "provide for" other officers necessarily includes the power to establish their qualifications for eligibility as well as their duties, tenure, and compensation. (See *Reed* v. *Hammond* (1912) 18 Cal.App. 442, 443, construing the predecessor provision, art. XI, § 5.) The express reference to the "governing body" suggests, except with respect to compensation which falls within the exclusive province of that body, the coordinate power of the Legislature and the county board of supervisors to create and provide for "other" county officers.[7] Nevertheless, the rule of preemption of the general laws over conflicting local laws, as in the case of those enacted under the police power, extends to those enacted under other constitutional grants of authority (cf. *Eastlick* v. *City of Los Angeles* (1947) 29 Cal.2d 661, 665), including article XI, section 1, subdivision (b) (54 Ops.Cal.Atty.Gen. 51 (1971)).[8] Hence, as in the case of the police power, the authority of a county to legislate under article XI, section 1, subdivision (b), except as may be in conflict with the general laws, being coextensive with that of the state itself, is not constrained by common law. (Cf. fn. 6, *ante*.)

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[7] Further, the use of the term "provide" indicates an intention to authorize the Legislature to delegate its own power with respect thereto. (Cf. *County of Madera* v. *Superior Court* (1974) 39 Cal.App.3d 665, 669-670; 63 Ops.Cal.Atty.Gen. 151, 152 (1980).)

[8] For a comprehensive analysis, see 66 Ops.Cal.Atty.Gen. ___ (No. 83-308) (1983).

Thus, the legislative authority of a general law county with respect to matters of statewide concern, is subordinate to the "general laws" in the event of a conflict. (*Abbott* v. *City of Los Angeles* (1960) 53 Cal.2d 674, 681.) In the absence of any conflict, however, the county is *constitutionally authorized* to legislate with regard to the qualifications of its officers.

No such conflict[9] arises. In this regard it will be shown that (1) the "general laws" do not encompass the common law, (2) Civil Code section 22.2, *supra*, was not intended to constrain the legislative powers of local government, and (3) section 65150 contemplates local legislation respecting the qualifications of planning commissioners. The term "general laws," with which local regulation must conform, does not encompass the common law. As noted by one commentator with reference to then article XI, section 11, of our constitution, now contained in substantially the same language in article XI, section 7:

> "The origin and purpose of the provision are exceedingly obscure. It was adopted without debate in the Convention and apparently without public discussion of any kind. It does not appear to have been taken from any other state although it was subsequently adopted in substance by three. It has remained, therefore, for the California courts to say what the provision means unaided by anything that went before. What they have said so far has been far from clear.
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> "Examination of section 11 reveals that it in effect does two things, *viz*. (1) it grants to counties, cities, towns and townships power to make the specified regulations and (2) it places a limitation on such grant by providing that the regulations authorized shall not be in conflict with general laws. Accordingly the courts have been confronted with two main problems, *i.e.*,

[9] The term "conflict" within the meaning of article XI, section 7, of the California Constitution has been judicially construed. (*Pipoly* v. *Benson* (1942) 20 Cal.2d 366, 370-371; *In re Lane* (1962) 58 Cal.2d 99, 106; *Abbott* v. *City of Los Angeles*, *supra*, 53 Cal.2d at 682; *Baron* v. *City of Los Angeles* (1970) 2 Cal.3d 535, 541; 62 Ops.Cal.Atty.Gen. 448, 450 (1979); 58 Ops.Cal.Atty.Gen. 519, 523-524 (1975).) Essentially, conflicts exist if the local regulation duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication. (*Lancaster* v. *Municipal Court* (1972) 6 Cal.3d 805, 807-808; 64 Ops.Cal.Atty.Gen. 339, 340 (1981).) A *direct* conflict will arise if the local regulation attempts to permit what the state law prohibits (*In re Iverson* (1926) 199 Cal. 582, 587), or to prohibit what state law permits (*Sports Committee etc.* v. *County of San Bernardino* (1980) 113 Cal.App.3d 155, 159). (64 Ops.Cal.Atty.Gen., *supra*, 343.) *Implied* preemption arises where the local regulation enters an area fully occupied by general law. (*Galvan* v. *Superior Court* (1969) 70 Cal.2d 851, 859-860, 862; 63 Ops.Cal.Atty.Gen. 905, 908, 910 (1980).)

> to determine the scope of the grant on the one hand and of the limitation on the other." (Peppin, *Municipal Home Rule in California III* (1944) 32 Cal.L.Rev. 341, 342, fns. omitted.)

In our view, the term "general law" as used in article XI, section 7, means "state statutes." That this is so is evidenced by chapter 32 of the Statutes of 1850, wherein the Legislature enacted a provision to require the publication of the laws of California, referring to them in section 1 as "all such laws . . . of a general character . . . passed, as shall be designated by the Legislature" and in section 2 as "all the general laws published in the manner prescribed by this act."[10]

We turn, then, to the provisions of section 22.2 of the Civil Code (formerly § 4468 of the Pol. Code). By its express terms, the common law is subordinate to the organic law of this state and of the federal government, and to the "laws of this state." (*Lowman* v. *Stafford* (1964) 226 Cal.App.2d 31, 39; *Martin* v. *Superior Court* (1917) 176 Cal. 289, 292, 293; 15 Ops.Cal.Atty.Gen. 108, 110 (1950).) Do the "laws of this state" include duly enacted local legislation, or does the phrase imply a limitation upon the constitutional power of cities and counties to enact local ordinances? A few of the earliest cases suggest, without consideration, such a limitation. (*South Pasadena* v. *Terminal Ry. Co.* (1895) 109 Cal. 315, 321; *Ex parte Kearney* (1880) 55 Cal. 212, 225.)

An ordinance has the same force within the corporate limits of a city (*Brown* v. *City of Berkeley* (1976) 57 Cal.App.3d 223, 231) or within county limits (*Evola* v. *Wendt Construction Co.* (1959) 170 Cal.App.2d 21, 24), as the case may be, as does a statute throughout the state. Hence, every part of the state is governed by the ordinances of a county or city, each such ordinance having, when duly enacted, and within its territorial limits, the same force and dignity as a law of general application. Such ordinances, adopted under the constitutional and legislative authority of the state, constitute an integral part of the "laws of the state." Accordingly, a local ordinance is as much a part of the legal system, and an exercise of the sovereign power of governance, as any statute of limited

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[10] One of the three states alluded to by *Peppin* as having adopted a constitutional provision similar to then article XI, section 11, has so held. Ohio has a constitutional provision (art. XVIII, § 3) which provides:

> "Municipalities shall have authority to exercise all powers of local self-government and adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws."

In *State* v. *Sherrill* (Ohio 1944) 53 N.E.2d 501, 505, the court stated: "the term 'general laws' as used in Section 3, Article XVIII, has been construed to mean state statutes . . . ." (See also *Foltz* v. *City of Dayton* (Ohio 1969) 254 N.E.2d 395, 399.)

geographical effect (cf. *McGlothlen* v. *Department of Motor Vehicles* (1977) 71 Cal.App.3d 1005) or statewide significance.

We discern no basis for the suggestion that the adoption of the common law as "the rule of decision" was intended to restrict the legislative powers of local governments. In our view, therefore, the "laws of this state" include duly enacted local legislation. Indeed, it has been held in a different statutory context that the "law of this state" includes municipal and county ordinances. (*People* v. *Williams* (1962) 207 Cal.App.2d Supp. 912, 915; *In re Johnson* (1920) 47 Cal.App. 465, 467; *Ex parte Sweetman* (1907) 5 Cal.App. 577, 579; *In re Miller* (1910) 13 Cal.App. 564, 566.)

Even assuming, however, as a general proposition that the common law may not be abrogated except by state statute, the ordinance in question is not precluded. Government Code section 65150, *supra*, expressly contemplating local legislation, provides that "[w]hen a county or city planning commission is created, the organization thereof, the number of members . . . and the method of their appointment and removal, *shall be as provided by local ordinance* . . . ." Thus, the power to appoint is expressly conferred, without limitation as to the qualifications and conditions of membership. While the section is silent as to qualifications of members of local planning commissions, it is clear that county officers are not required to be selected at random. Rather, the power of the county or city by ordinance to prescribe such qualifications, inherent in the power of appointment (cf. 63 Ops.Cal.Atty.Gen. 24, 30 (1980)), is no less than that of the Legislature, had it undertaken to do so. In *Monterey Club* v. *Superior Court* (1941) 48 Cal.App.2d 131, an action was brought to abate as a public nuisance the operation of a gambling house (specifically, the playing of "draw poker"). (*Id.*, at 138-139.) A state statute authorized municipalities "to license for the purpose of revenue and regulation all and every kind of business every kind of business *authorized by law* . . . and *lawful* games carried on therein . . . ." (*Id.*, at 147; emphases added.) A "nuisance" was defined by Civil Code section 3479, so far as pertinent, as "anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property . . . ." (*Id.*, at 145.) Civil Code section 3482 provided that "[n]othing which is done or maintained under the express authority of a *statute* can be deemed a nuisance." (*Id.*, at 146; emphasis added.) A city ordinance provided in general for the licensing and regulation of certain kinds of business, including the maintenance of a place used for "the playing of games not prohibited by statute," including "draw poker." (*Id.*, at 135.) It was contended, however, that a gambling house was, at common law, a nuisance subject to abatement. (*Id.*, at 144.) The court held, first, that the statutory definition of "nuisance" superseded that of common law (*id.*), further stating:

". . . In California the common law is inapplicable where, among other things, it has been modified by our statutes . . . In recognition of the foregoing, we find it ordained by section 4468 of our Political Code that 'the common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States or the Constitution *or laws of this state*, is the rule of decision in all the courts of this state'; and again, section 4 of the Civil Code provides: 'The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. The code establishes the law of this state respecting the subjects to which it relates, and its provisions are to be liberally construed with a view to effect its objects and to promote justice." (*Id.*, at 145.)

By virtue of Civil Code section 3482, anything done under the express authority of a *statute* was specifically excluded from the definition of "nuisance." The activity in question was expressly authorized by *ordinance*. The court held finally that such activity was not unlawful under any state statute, and could, though a nuisance under common law, be permitted by ordinance:

"Any ordinance passed by a municipal corporation within the scope of the authority conferred on it has the same force within its corporate limits as a statute passed by the legislature has throughout the state. (*Marculescu* v. *City Planning Com.*, 7 Cal.App(2d) 371.) . . . [T]he Municipal Corporations Act . . . expressly authorizes municipalities 'to license for the purpose of revenue and regulation all and every kind of business authorized by law . . . and lawful games carried on therein. . . .' That by reason of the aforesaid delegation of power the city of Gardena was authorized to pass the ordinance hereinbefore referred to licensing the playing of draw poker, if such game was not unlawful, admits of no argument or denial. Manifestly, under the terms of section 3482 of the Civil Code, *supra*, *nothing done under the express authority of a statute or within a city by authority of an ordinance can be deemed a nuisance."* (*Id.*, at 147; emphasis added.)

Accordingly, neither the ordinance of the county nor of the city is, in our view, constrained by common law, or in conflict with the general law, including Government Code section 65150, but rather is authorized by that statute and by the constitution itself. It is concluded, therefore, that the county and city may provide by coordinate legislation for the simultaneous holding of the offices in question notwithstanding the common law rule.

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