Case No. S242835

IN THE SUPREME COURT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Petitioner,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, et al.,

Respondents.

Court of Appeal, First District, Case No. A144500
Alameda County Superior Court, Case No. CPF-14-513-434
The Honorable Marla J. Miller, Judge

APPLICATION TO FILE *AMICUS CURIAE* BRIEF AND *AMICUS CURIAE* BRIEF OF CALIFORNIA CONSTITUTION CENTER SUPPORTING RESPONDENTS

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APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Under California Rules of Court rule 8.520(f), California Constitution Center requests leave to file the attached *amicus curiae* brief in support of respondents Regents of the University of California, et al.[1]

California Constitution Center is a nonpartisan academic research center wholly owned and operated by the University of California, Berkeley, School of Law. It is the first and only center at any law school devoted exclusively to studying California's constitution and high court.

The proposed brief will assist the Court by exploring the deep principle that governs this case: California is a sovereign state vested with governmental power superior to its political subordinates. A municipal corporation in California, even one with charter city powers, cannot bind branches of the sovereign state government (like the University of California) because the state constitution's charter provisions only permit a city to protect itself from the legislature, not to regulate branches of the state government. A charter is a shield, not a sword.

Amicus is interested in this case because it raises an important issue of California constitutional law. The city's arguments, if adopted, would

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[1] No party or counsel for any party authored this brief, participated in its drafting, or made any monetary contributions intended to fund the preparation or submission of the proposed brief. *Amicus* certifies that no other person or entity other than the *amicus* and its counsel authored or made any monetary contribution intended to fund the preparation or submission of the brief. Cal. Rules of Court rule 8.520(f)(4).

fundamentally rewrite existing constitutional doctrine governing state–local relations. This would upend decades of settled law and overturn countless published appellate opinions, opening the gates to years of disputes as the new rule's details are litigated. The proposed brief will assist the Court by exploring the nature of the governmental entity litigants, describing the conceptual defects in the city's arguments, and identifying the potential effects on state and local government.

Respectfully submitted,

Dated: July 6, 2018

California Constitution Center
By: /s/ David A. Carrillo
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AMICUS CURIAE BRIEF

INTRODUCTION AND SUMMARY OF ARGUMENT

This case turns on the most basic principle of government: sovereignty. California is a sovereign state with governmental power superior to its political subordinates. The state constitution vests a branch of the state government, the University of California, with autonomous powers of independent self-government. Cities can adopt charters to protect their ordinances on purely local matters from interference by the state legislature. But a charter city, as a subordinate entity, cannot compel a state government branch like the University to comply with a local tax ordinance.

The U.S. Constitution defines the states and the federal government, and provides principles that govern their interactions. In the federal system both the general government and the states are sovereign, yet neither can be all-powerful, and so courts use federalism to adjudicate inter-sovereign disputes. The relationship between California's state and local governments is superficially similar, in that the state is supreme in its sphere and charter cities are granted autonomy in local matters. The critical difference is that only the state is sovereign in California, unless the state waives that status or engages in non-state activity. While federalism regulates state–federal relations, sovereignty principles regulate state–city interaction. Because the state's power is superior to politically subordinate cities, sovereignty principles bar a city from regulating the state when it is engaging in governmental activities.

The University has unique constitutional status, which empowers it to function as an independent state sovereign. The state constitution establishes the University as a public trust with full powers of organization and government (including quasi-judicial powers and quasi-legislative powers) subject to only limited legislative regulation. As a constitutionally created arm of the state the University has virtual autonomy in self-governance. Basic sovereignty principles teach that a political subordinate like a city (even a charter city) cannot legislate against a state-government branch like the University.

This Court's decisions have never expanded the narrow municipal affairs doctrine to permit a city to regulate the state or its branches. On the contrary, the municipal affairs concept applies only to disputes between the legislature and charter cities. And the appellate decisions are uniform on the broader sovereignty issue, consistently holding that the state's sovereignty is impervious to local regulation. A decision here that defined a city's regulation of a state entity as a municipal affair would turn that concept on its head: any local ordinance that impairs the state's sovereignty is necessarily a *state* affair.[1] Reversing here would upend decades of settled law, redefine California government to make cities superior to the state itself, and subject the state to 108 different sets of local

[1] *See, e.g., In re Means* (1939) 14 Cal.2d 254, 260 ("the challenged ordinance, insofar as it attempts to regulate employees of the state, is not legislation having to do with a municipal affair").

regulations, all with unknowable consequences.[2] The decision below, holding that a city cannot by ordinance regulate a state government branch's property, should be affirmed.

ARGUMENT

I. California Is A Sovereign State With Supreme Power Over Its Political Subordinates.

Sovereignty is "the state itself," the power of "[s]upreme dominion, authority, or rule," and it describes the "supreme political authority of an independent state." Black's Law Dictionary 1611 (10th ed. 2014). Under the U.S. Constitution the states retain "a residuary and inviolable sovereignty," so that both the federal government and the states wield sovereign powers, which is why our system of government is said to be one of "dual sovereignty." *Murphy v. Nat'l Collegiate Athletic Ass'n* (2018) 138 S.Ct. 1461, 1475. The states possess all powers of sovereignty not expressly delegated by the federal constitution, and the state and federal governments are "absolute and beyond the control or interference of the other" within the sphere of their respective powers. *Johnson v. Gordon* (1854) 4 Cal. 368, 369; *Martin v. Hunter's Lessee* (1816) 14 U.S. 304, 325.[3] As one of the states, California is sovereign. "Each State is supreme within its own

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[2] "Of California's 478 cities, 108 of them are charter cities." League of California Cities, *Charter Cities: A Quick Summary for the Press and Researchers* 1 (2007).

[3] *See also Lin Sing v. Washburn* (1862) 20 Cal. 534, 541 ("[I]n the United States, contrary to the habit and example of other nations, there is a complex, double sovereignty—to the States a domestic or municipal sovereignty, and to the United States a foreign or national sovereignty").

sphere, as an independent sovereignty." *People v. Coleman* (1854) 4 Cal. 46, 46.

California's sovereignty defines its relationship with its political subordinates: The state is supreme. *Cal. Redevelopment Ass'n v. Matosantos* (2011) 53 Cal.4th 231, 255. "In our federal system the states are sovereign but cities and counties are not; in California as elsewhere they are mere creatures of the state and exist only at the state's sufferance." *Bd. of Supervisors v. Local Agency Formation Comm'n* (1992) 3 Cal.4th 903, 914.[4] "The state (and, in particular, the Legislature) has plenary power to set the conditions under which its political subdivisions are created." *Cal. Redevelopment Ass'n*, 53 Cal.4th at 255 (quotations and citation omitted). Cities are the lowest-status governments, because while "[a] county is a governmental agency or political subdivision of the state," a city is merely "an incorporation of the inhabitants of a specified region for purposes of local government." *Abbott v. City of Los Angeles* (1958) 50 Cal.2d 438, 467 (quoting *Cty. of San Mateo v. Coburn* (1900) 130 Cal. 631, 636).[5]

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[4] *See also City of El Monte v. Comm'n on State Mandates* (2000) 83 Cal.App.4th 266, 279 ("Only the state is sovereign and, in a broad sense, all local governments, districts, and the like are subdivisions of the state."). "The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such powers, . . . expand or contract the territorial area, unite the whole or a part of it with another municipality, [or] repeal the charter and destroy the corporation." *Hunter v. Pittsburgh* (1907) 207 U.S. 161, 178–179.

[5] *See, e.g., People v. Provines* (1868) 34 Cal. 520, 533 (describing "local and subordinate governments, such as county, city and town governments"); *Manning v. City of Pasadena* (1922) 58 Cal.App. 666, 669 (cities are subordinate agencies of the state).

The differences between the state and federal governments mean that the state–federal and the state–city relationships are fundamentally distinct. For example, because the state is supreme over its subordinates, there is no California version of the federal anti-commandeering doctrine, which bars Congress from issuing direct orders to state governments because of its limited legislative authority. *Murphy*, 138 S.Ct. at 1476 (Congress has "not plenary legislative power but only certain enumerated powers."). But the California legislature does have plenary legislative power. *Cal. Redevelopment Ass'n*, 53 Cal.4th at 254. Because the California constitution is a limitation rather than a grant of power, and because Article IV, section 1 of the California constitution vests the state's legislative power in the legislature, "it is well established that the California Legislature possesses *plenary* legislative authority except as specifically limited by the California Constitution." *Marine Forests Soc'y v. Cal. Coastal Comm'n* (2005) 36 Cal.4th 1, 31 (emphasis original); *Howard Jarvis Taxpayers Ass'n v. Padilla* (2016) 62 Cal.4th 486, 497–98. Consequently, the state government can (and does) dictate policy to the state's cities.

If Congress cannot make sovereign states enforce federal law, then it makes even less sense that a politically subordinate city could compel a state branch to enforce a local ordinance. While the state constitution gives cities that adopt a charter full authority over municipal affairs,[6] that degree of local autonomy does

[6] For an overview of the charter city constitutional provisions' historical evolution, *see Johnson v. Bradley* (1992) 4 Cal.4th 389, 394–97.

nothing to reduce the state's supremacy as a sovereign government—nor does it change the city's subordinate status. A charter does not elevate a city to the status of coequal sovereign with the state itself, or provide a city legislative power against the state.[7]

Instead, the state constitution's charter provisions were intended only to allow cities to shield their purely local matters from one specific branch of the state government—the legislature. *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles* (1991) 54 Cal.3d 1, 12 n.10.; *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 224–25. A charter does not permit a city to regulate the sovereign state. "[T]he state, when creating municipal governments, does not cede to them any control of the state's property situated within them, nor over any property which the state has authorized another body or power to control." *In re Means* (1939) 14 Cal.2d 254, 259. While a charter certainly changes a city's relationship with the legislature, it does nothing to alter the state's sovereignty, nor could it affect the city's relationship with another state government branch like the University.

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[7] *See, e.g., City of Orange v. Valenti* (1974) 37 Cal.App.3d 240, 244 (the state is not subject to the legislative enactment of a subordinate city government); *Los Angeles Cty. v. City of Los Angeles* (1963) 212 Cal.App.2d 160, 165 (Article XI, section 11 does not empower a city to regulate the activities of the county as a state subdivision); *Manning v. City of Pasadena* (1922) 58 Cal.App. 666, 669 (cities are subordinate agencies of the state).

II. The University Is A Semi-Sovereign State Branch.

Under United States and California Supreme Court precedent, the University is a branch of the state government. *Hamilton v. Regents of the Univ. of Cal.* (1934) 293 U.S. 245, 257 (University is a constitutional department or function of the state government); *Miklosy v. Regents of Univ. of Cal.* (2008) 44 Cal.4th 876, 889–90 (University has been characterized as "a branch of the state itself"); *Campbell v. Regents of Univ. of Cal.* (2005) 35 Cal.4th 311, 320–21 (same); *Smith v. Regents of Univ. of Cal.* (1993) 4 Cal.4th 843, 862–63 (constitution's general grant of power gives University virtual autonomy in self-governance).

The University has broad constitutional powers to organize and govern itself. The state constitution establishes the University as a "public trust . . . with full powers of organization and government." Cal. Const., article IX, § 9(a); *see Miklosy*, 44 Cal.4th at 889–90; *Campbell*, 35 Cal.4th at 320–21.[8] Its "unique constitutional status" permits it to function "in some ways as an independent sovereign." *Miklosy*, 44 Cal.4th at 889–90.

Article IX grants the University virtual autonomy in self-governance. "The

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[8] "The University of California was originally a corporation, with the Regents as its board of directors. During the first decade of the University's existence, controversy arose among political factions seeking to control the University's governance and curriculum. A 'decisive battle' was waged in the constitutional convention of 1879, culminating in the adoption of article IX, section 9 and the establishment of the University as a constitutionally created public trust." *People v. Lofchie* (2014) 229 Cal.App.4th 240, 248 (citations omitted).

Regents have the general rule-making or policy-making power in regard to the University and are fully empowered with respect to the organization and government of the University. The power of the Regents to operate, control, and administer the University is virtually exclusive." *San Francisco Labor Council v. Regents of Univ. of Cal.* (1980) 26 Cal.3d 785, 788 (cleaned up). For example, the University can exercise quasi-judicial power.[9] And because the University is not a state agency, but a constitutionally created public trust, it has "general immunity from legislative regulation." *Id.* The University itself fills the regulatory gap. *Campbell*, 35 Cal.4th at 320 ("policies established by the Regents as matters of internal regulation may enjoy a status equivalent to that of state statutes").[10] That power is subject only to limited legislative regulation, in just three areas: general

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[9] *Berman v. Regents of Univ. of Cal.* (2014) 229 Cal.App.4th 1265, 1272 (University's virtual autonomy in self-governance as a constitutionally created arm of the state necessarily includes quasi-judicial administrative authority); *Ishimatsu v. Regents of Univ. of Cal.* (1968) 266 Cal.App.2d 854, 864 (same); *Apte v. Regents of Univ. of Cal.* (1988) 198 Cal.App.3d 1084, 1090–91 (University's quasi-judicial powers have "found general acceptance").

[10] For example, California's Government Claims Act applies to the Trustees of the California State University and to community college districts, but "does not apply to claims against the Regents of the University of California." Gov. Code §§ 905.6, 911.2. Within the realm of activities concerning academic and student affairs and internal organizational matters, the Regents possess sole and exclusive rule-making powers governing the University. *Hamilton*, *supra*, 219 Cal. 663 (prescribe academic course content and student requirements); *Amluxen v. Regents of Univ. of Cal.* (1975) 53 Cal.App.3d 27 (promulgate staff personnel policy); *Cal. State Employees' Ass'n v. Regents of Univ. of Cal.* (1968) 267 Cal.App.2d 667 (establish payroll deduction policy); *Ishimatsu*, *supra*, 266 Cal.App.2d 854 (adjudicate personnel grievances); *Goldberg v. Regents of Univ. of Cal.* (1967) 248 Cal.App.2d 867 (maintain campus order); *Wall v. Board of Regents of Univ. of Cal.* (1940) 38 Cal.App.2d 698 (determine qualifications of academic instructors).

police power regulations; regulations of statewide concern not involving internal university affairs; and the legislature retains appropriation power. *San Francisco Labor Council*, 26 Cal.3d at 789.

As a branch of the state, the University's constitutional autonomy is greater than that of charter cities. *People v. Lofchie* (2014) 229 Cal.App.4th 240, 262. A charter does not permit a city to regulate state property:

> When [the state] engages in such sovereign activities as the construction and maintenance of its buildings . . . it is not subject to local regulations unless the Constitution says it is or the Legislature has consented to such regulation. [Cal. Const., art. XI, § 11] should not be considered as conferring such powers on local government agencies.

Hall v. City of Taft (1956) 47 Cal.2d 177, 182–83.[11] In a contemporaneous opinion with *Hall*, the California Attorney General reached the same conclusion about the University's autonomy:

> The University of California is a state institution and is a constitutional corporation or department and constitutes a branch of the state government equal and coordinate with the legislature, the judiciary and the executive; the power of the regents to operate, control and administer the University is virtually exclusive.

30 Op.Atty.Gen. 162 (1957). The Courts of Appeal has uniformly agreed. *See, e.g.*, *Regents of Univ. of Cal. v. City of Santa Monica* (1978) 77 Cal.App.3d 130, 135 ("In view of the virtually plenary power of the Regents in the regulation of affairs relating to the university and the use of property owned or leased by it for

[11] Superseded by statute as to non-University state public schools. See *San Jose Unified Sch. Dist. v. Santa Clara Cty. Office of Educ.* (2017) 7 Cal.App.5th 967.

educational purposes, it is not subject to municipal regulation.").[12] These authorities are unanimous and conclusive: as a constitutional state sovereign, the University's property is impervious to regulation by a charter city.

III. Charter City Ordinances Are Subordinate To The Sovereign State's Authority Over Its Own Property.

Because the University is the state, sovereignty (and not preemption or immunity) provides the governing principle for this dispute.

The self-government powers Article XI grants a city do not touch the sovereign power of a state government branch like the University. Instead, questions about whether a law applies to the University turn on its sovereignty: laws do not apply to the University when doing so would infringe upon its sovereign governmental powers. *Regents of Univ. of Cal. v. Super. Ct.* (1976) 17 Cal.3d 533, 536. Cities lack sovereign powers, unless the state constitution grants them a limited measure of the state's sovereignty. *See Douglass v. City of Los Angeles* (1935) 5 Cal.2d 123, 132. Consequently, this attempt by a city to legislate against the University turns on sovereignty, not charter powers.

Sovereignty was the frame for the state–city dispute in *City of Orange v. Valenti* (1974) 37 Cal.App.3d 240. There, a city attempted to enforce a parking ordinance against a state agency. The court held that the ordinance could not be applied against the state, because when the state engages in such sovereign

[12] This Court cited *Santa Monica* favorably for this principle twice, in *Miklosy*, 44 Cal.4th at 889–90 and *Campbell*.

activities as maintaining its buildings it "is not subject to local regulations unless the Constitution says it is or the Legislature has consented to such regulations," and applying the ordinance against the state "would have the effect of limiting the state's sovereignty by local regulation, which is prohibited by *Hall v. City of Taft*." 37 Cal.App.3d at 244. The same principle applies here: applying the city's parking ordinance to the University would be to limit the state's sovereignty by local regulation. When an arm of the state (like the University) is performing a state function (like operating its property for parking), that is a state function and charter cities cannot regulate it. *Cty. of Santa Barbara v. City of Santa Barbara* (1976) 59 Cal.App.3d 364, 371–72.[13]

Legislative preemption is the wrong frame for state–city power contests. The preemption analysis that this Court generally uses to resolve questions about charter city powers only applies to disputes between the legislature and a charter city. Charter powers were specifically intended as a shield for cities against the legislature. *Cal. Fed. Savings & Loan Ass'n*, 54 Cal.3d at 12 n.10.; *Amador Valley Joint Union High Sch. Dist.*, 22 Cal.3d at 224–25. Preemption is "nothing more

[13] In *Ex parte Daniels* (1920) 183 Cal. 636, for example, this Court framed a dispute over a charter city ordinance in sovereignty terms, holding because the city streets "belong to the people of the state . . . The right of control over street traffic is an exercise of a part of the sovereign power of the state." *Id.* at 639. And the decision noted that Article XI was only intended to grant such "attributes of sovereignty" to charter cities as would be a limitation on the legislature's power. *Id.* at 640. *Accord Bay Cities Transit Co. v. City of Los Angeles* (1940) 16 Cal.2d 772, 777 (right of control over street traffic is an exercise of a part of the sovereign power of the state).

than a conceptual formula employed in aid of the judicial mediation of jurisdictional disputes between charter cities and the Legislature." *Cal. Fed. Savings & Loan Ass'n*, 54 Cal.3d at 17.

Preemption only applies to the legislature, and the legislature is not the sovereign. "The people of the state in forming its government, divided its sovereign powers into separate departments—the judicial, the legislative, and the executive." *State v. Royal Consol. Mining Co.* (1921) 187 Cal. 343, 348.[14] The legislature is a branch of the state government, and it is vested with the state's legislative power, but it is not the state itself.[15] Because the legislature is not the state, and because charter powers were intended only to affect the city's relationship with the legislature, preemption cannot apply to state–city conflicts.

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[14] This Court has acknowledged confusion in the doctrines for resolving state–city conflicts. *Prof. Fire Fighters, Inc. v. City of Los Angeles* (1963) 60 Cal.2d 276, 292–93 (cases where the general law is of statewide concern should not to be confused with cases turning on state field preemption, "although the two doctrines overlap").

[15] *State Bar of Cal. v. Super. Ct.* (1929) 207 Cal. 323, 329–30:

> That the legislature is vested with the whole of the legislative power of the state . . . are principles so familiar as hardly to need mention. The declaration in article IV, section 1, of the Constitution: "The legislative power of this state shall be vested in a senate and assembly, which shall be designated the legislature of the state of California,"—comprehends the exercise of all the sovereign authority of the state in matters which are properly the subject of legislation . . .

See also State v. Royal Consol. Mining Co. (1921) 187 Cal. 343, 349 ("the state Legislature has all the sovereign powers of legislation"); *Fragley v. Phelan* (1899) 126 Cal. 383, 389 ("The legislature stands as the representative of the sovereign power of the state"). Similarly, the state constitution vests the judicial portion of the state's sovereignty in the courts. *Royal Consol. Mining Co.*, 187 Cal. at 349.

The argument that a municipal affairs preemption analysis should apply to the University has already been rejected by one appellate court. Because the constitutional autonomy granted to the University under Article IX, section 9 is substantially greater than that accorded to charter cities under article XI, section 5, "[t]he municipal home rule analysis is therefore inapplicable to the University of California." *Lofchie*, 229 Cal.App.4th at 262.

Sovereign immunity is also the wrong analysis here. "The theory of sovereign immunity originated in the fiction that the king can do no wrong." *People v. Super. Ct.* (1947) 29 Cal.2d 754, 756. It is best viewed as a restriction on jurisdiction. *Muskopf v. Corning Hospital Dist.* (1961) 55 Cal.2d 211, 214 n.1. "The general expression of the doctrine of sovereign immunity is that the state may not be sued without its consent." *People v. Super. Ct.*, 29 Cal.2d at 757. Traditionally, the doctrine shielded states from both suit and liability, and a state was immune except to the extent it consented to suit. *Dep't of State Hospitals v. Super. Ct.* (2015) 61 Cal.4th 339, 347. But in *Muskopf*, this Court abolished the judicial rule of government immunity from tort liability. Following that decision, sovereign immunity exists only by statute in California.[16]

That statutory immunity is not in play here. It is the University's state sovereignty that elevates it over local regulation, not mere statutory protection. It

[16] The legislature responded to *Muskopf* in 1963 with the Government Claims Act (Gov. Code § 810 et seq.), which sets out a statutory scheme of governmental liability and immunity statutes.

is the state's sovereignty over the inferior municipality that prevents the government with less power from regulating the government with more power. It is the constitutional grant of the state's sovereignty to the University that the city cannot burden.[17]

The argument that charter powers permit a city to regulate state property has been repeatedly rejected. "[T]he University of California is not subject to local regulations with regard to its use or management of the property held by the Regents in public trust." *Regents of Univ. of Cal. v. City of Santa Monica,* 77 Cal.App.3d at 136–37 (quoting *Oakland Raiders v. City of Berkeley* (1976) 65 Cal.App.3d 623, 626).[18] The only exception is when the state lands are used for a non-public purpose. *City Street Imp. Co. v. Regents of University of California* (1908) 153 Cal. 776, 779 (where state lands are not directly and necessarily used for a public purpose, they may be subjected to the payment of special assessments for benefits, citing *In re Royer's Estate* (1899) 123 Cal. 614). And this Court has limited its decision in *Royer's Estate* to its factual context, reading it as authority for the principle that the University "is not clothed with the sovereignty of the

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[17] See *In re Johnston* (1902) 137 Cal. 115, 120 ("When the sovereign authority of the state, either in its Constitution or through its Legislature, has created a right and expressed and defined the conditions under which it may be enjoyed, it is not within the province of a municipality where such right is sought to be exercised or enjoyed to impose additional burdens or terms as a condition to its exercise.").

[18] Even the dissenting justice below acknowledged that *Santa Monica* "was very similar to *Hall*, except that it involved a charter city and the Regents of the University of California"—in other words, *Santa Monica* is directly on point here. That decision applies *Hall*'s general principle to the same facts as in this case: a charter city claiming that the University must comply with local ordinances.

state" only in the context of whether it is included in a statute. *People ex rel. Stone v. Jefferds* (1899) 126 Cal. 296, 301–302.

Nor does it help the city to argue that its ordinance is a tax measure, or a "regulation," because neither is permitted against the sovereign state:

> Although municipal taxation is a "municipal affair" within the meaning of article XI, section 5(a), in that it is a necessary and appropriate power of municipal government, aspects of local taxation may under some circumstances acquire a "supramunicipal" dimension, transforming an otherwise intramural affair into a matter of statewide concern warranting legislative attention. In short, our cases do not support the distinction drawn by the Court of Appeal; charter city tax measures are subject to the same legal analysis and accumulated body of decisional law under article XI, section 5(a), as charter city regulatory measures.

Cal. Fed. Savings & Loan Ass'n, 54 Cal.3d at 7. Whether classed as a tax or a regulation, the city's attempt to control sovereign state property fails.

At most the city can claim that the state was not acting in its sovereign capacity here, instead behaving as a market participant in the proprietary activity of managing a parking lot. As the Court of Appeal correctly noted, however, parking operations are a sovereign activity because they "support the universities' educational and clinical programs," 11 Cal.App.5th at 1114–16, just like the "construction and maintenance" of public buildings at issue in *Hall*, 47 Cal.2d at 182–83. Properly viewed as a sovereignty matter, there is no basis for a subordinate city's ordinance to regulate a sovereign state entity like the University.