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Judicial Notice: Florida's New Look at Municipal Ordinances

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CASE COMMENTS

JUDICIAL NOTICE: FLORIDA'S NEW LOOK AT MUNICIPAL ORDINANCES*

Holmes v. State, 273 So. 2d 753 (Fla. 1973)

Defendant was charged with possession of burglary tools plainly observed incident to his arrest under a municipal ordinance for careless driving.[1] He moved to suppress the tools as evidence and his motion was granted.[2] On the state's appeal of the order granting the motion, defendant argued that the order to suppress was supported by the state's failure to introduce the city ordinance at the hearing.[3] The Second District Court of Appeal reversed and remanded, concluding *inter alia* that an ordinance need not be proved at a hearing on motion to suppress.[4] On certiorari,[5] the Florida supreme court affirmed the appellate court and HELD, a trial court may take judicial notice of those municipal ordinances it is charged with enforcing.[6]

In the allocation of juridical responsibilities, judges are charged with knowledge of the domestic law.[7] Judicial notice proceeds on the notion that that judge is responsible to know or discover the applicable law.[8] Historically, his responsibility did not extend to matters beyond his reasonable knowledge or easy access, so judicial notice was not taken of such remote matters as the laws of sister states or foreign countries.[9] Likewise, because of the multitude of municipalities,[10] the manner in which ordinances were kept[11] and the limited

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1. State v. Holmes, 256 So. 2d 32 (2d D.C.A. Fla. 1971).
2. *Id.* at 33.
3. *Id.* at 35.
4. *Id.* at 35, 37.
5. Defendant alleged conflict with prior decisions of the supreme court and district courts of appeal concerning whether a trial court could take judicial notice of municipal ordinances. Holmes v. State, 273 So. 2d 753 (Fla. 1973).
6. *Id.* at 755.
7. *See* 9 J. WIGMORE, EVIDENCE §2572, at 551 (3d ed. 1940) [herinafter cited as J. WIGMORE]; Morgan, *Judicial Notice*, 57 HARV. L. REV. 269, 270 (1944).
8. Behind the term "judicial notice" is the implication that what is judicially noticed need not be pleaded and proved. *See* McNaughton, *Judicial Notice—Excerpts Relating to the Morgan-Wigmore Controversy*, 14 VAND. L. REV. 779, 782-83 (1961). Thus, responsibility lay not with the parties to plead and prove the law, but with the judge to take judicial notice of it. *See also* C. MCCORMICK, HANDBOOK OF THE LAW OF EVIDENCE §335, at 776 (2d ed. 1972) [hereinafter cited as C. MCCORMICK]; Kongsgaard, *Judicial Notice and the California Evidence Code*, 18 HASTINGS L.J. 117, 127-28 (1966).
9. City of Austin v. Walton, 68 Tex. 507, 509, 5 S.W. 70, 71 (1887); 9 J. WIGMORE §2572, at 551; McNaughton, *supra* note 8, at 785.
10. Whidden, *Municipal Ordinances and Their Validity as Subject of Judicial Notice*, 15 CHI.-KENT L. REV. 140, 143 (1937).
11. J. MAGUIRE, J. WEINSTEIN, J. CHADBOURN & J. MANSFIELD, CASES AND MATERIALS ON EVIDENCE 75 (5th ed. 1965).

accessibility of ordinances for lawyers and judges,[12] common law generally did not permit judicial notice of municipal ordinances.[13]

Numerous exceptions to the common law rule have been recognized. Thus, statutes in other states permit judicial notice of all municipal ordinances,[14] of ordinances of a certain city[15] or cities of a certain size,[16] or of ordinances filed with a particular court.[17] The most common court-adopted exception permits judicial notice of municipal ordinances by the court charged with enforcing the ordinance.[18] The rationale given for this exception is that such courts "stand in the same relationship to municipal laws as do courts of general jurisdiction to public laws and, consequently, as to them, the local ordinances are the peculiar law of the forum."[19] Based on this rationale, some courts have held that municipal courts *must* judicially notice their local ordinances,[20] but most courts using this rationale merely provide that judicial notice *may* be taken.[21]

Florida has long recognized the common law rule disallowing judicial notice of municipal ordinances. The rule was first stated by the supreme court in *Freeman v. State*,[22] where the defendant was charged with perjury in a mayor's court in a case involving a local gambling ordinance. In the prejury trial neither the ordinance nor evidence showing the mayor's jurisdiction in the earlier case was offered into evidence.[23] The supreme court held that there

12. *Id.*; C. MCCORMICK §335, at 776.

13. *See* 9 J. WIGMORE §2572, at 552 and cases cited therein.

14. *See, e.g.*, N.Y. MUN. HOME RULE LAW §52 (McKinney 1968), which provides: "Courts shall take judicial notice of all local laws and of rules and regulations adopted pursuant thereto."

15. *See, e.g.*, KY. REV. STAT. §83.490 (Supp. 1972), which provides: "The courts shall take judicial notice of the ordinances of [a city of the first class] . . . ." Louisville is the only city defined by statute to be a city of the first class. KY. REV. STAT. §81.010(1) (1969).

16. *See, e.g.*, ALA. CODE tit. 7, §429(1) (1958), *as amended* ALA. CODE, tit. 7, §429(1) (Supp. 1971), which provides: "All courts in or of the state of Alabama shall take judicial notice of all ordinances, laws and bylaws of cities of the state of Alabama which may now or hereafter have a population of one hundred seventy-five thousand or more people according to the last or any succeeding federal census."

17. *See, e.g.*, LA. REV. STAT. ANN. §13:3712 (West 1968), which provides: "All courts of record in the state shall take judicial cognizance of the municipal ordinances and parochial ordinances which may be enacted by governing authority of any town, city, municipality, or parish within their respective jurisdictions whenever certified copies of such ordinances have been filed with the clerk of said court. . . ."

18. *See, e.g.*, People v. Crittenden, 93 Cal. App. 2d 871, 877, 209 P.2d 161, 165 (1949); Hill v. City of Atlanta, 125 Ga. 697, 698, 54 S.E. 354, 355 (1906). *See also* 9 J. WIGMORE §2572 and cases cited therein.

19. Tipp v. District of Columbia, 102 F.2d 264, 265-66 (D.C. Cir. 1939). This language is widely cited as representative of the rationale behind this exception.

20. City of Lewiston v. Frary, 91 Idaho 322, 328, 420 P.2d 805, 811 (1966); Jackson v. Copelan, 50 Ohio App. 414, 416, 198 N.E. 596, 597 (1935).

21. *See, e.g.*, State *ex rel.* Cotonio v. Judge of Crim. Dist. Ct., 105 La. 758, 765, 30 So. 105, 108 (1900); People v. Steiner, 236 Mich. 618, 619, 211 N.W. 30, 31 (1926).

22. 19 Fla. 552 (1882).

23. *Id.* at 556.

could be no perjury where the lower court had no jurisdiction, and the court would not judicially notice the ordinance to establish jurisdiction.[24] While *Freeman* stated the rule's applicability in general terms,[25] the court in *Stephens v. Anderson*[26] specifically applied it to the supreme court. Similarly, the rule has been applied to district courts of appeal[27] and by implication to trial courts.[28]

Florida courts have commonly used the *Freeman* rule to deny or limit appellate review. For instance, the supreme court in *State* ex rel. *Kay v. City of Miami*[29] refused to notice the contents of an ordinance used to deny a petitioner permission to transfer his liquor license, even though he claimed the ordinance did not apply to one in his status.[30] Similarly, in *Conrad v. Jackson*[31] the supreme court refused to construe a local building ordinance not in the record, although both parties quoted from the ordinance. Rather than judicially notice the ordinances involved, the supreme court in *Conrad* and the Third District Court of Appeal in *City of Opa-Locka v. Trustees of Plumbing Industry Promotion Fund*[32] deferred to the interpretations of the ordinances given by the chancellors involved.[33] In *Applied Research Laboratories of Flor-*

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24. *Id.*

25. "The courts may perhaps taken [*sic*] judicial notice of the fact that the town of Madison is an incorporated town under the general statutes enacted for the purpose of incorporating cities and towns. But they cannot take cognizance of the ordinances passed under and by virtue of such incorporation." *Id.*

26. 75 Fla. 575, 79 So. 205 (1918). "This court does not take judicial notice of city ordinances." *Id.*

27. Town of Medley v. Caplan, 191 So. 2d 449 (3d D.C.A. Fla. 1966). The court used general language to apply the rule to district courts of appeal: "Municipal ordinances must be proven and the courts may not take judicial knowledge of them . . . ." *Id.* at 450. *See also* City of Opa Locka v. Trustees of Plumbing Indus. Promotion Fund, 193 So. 2d 29, 32 (3d D.C.A. Fla. 1966) (made specific the rule's application to district courts of appeal).

28. Applied Research Laboratories of Florida, Inc. v. Homer, 249 So. 2d 732 (3d D.C.A. Fla. 1971). "Precisely what the defendant's duties and obligations under this [Metropolitan] Code are, or what the Code specifically provides, is left to conjecture, since it is fundamental that we cannot take judicial notice of the contents of municipal ordinances. Accordingly, *neither the trial court* nor we can determine in what respect the defendant . . . breached any duty imposed on him by the Code . . . ." *Id.* at 733 (emphasis added).

29. 158 Fla. 26, 27 So. 2d 413 (1946).

30. *Id.* In affirming the circuit court's denial, the supreme court refused to rule on petitioner's claim that the ordinance did not apply to him because the ordinance was not in the record. The court further refused to put it in the record by taking judicial notice of it.

31. 107 So. 2d 369 (Fla. 1958).

32. 193 So. 2d 29 (3d D.C.A. Fla. 1966).

33. Conrad v. Jackson, 107 So. 2d 369, 371 (Fla. 1958); City of Opa-Locka v. Trustees of Plumbing Indus. Promotion Fund, 193 So. 2d 29, 32 (3d D.C.A. Fla. 1966). It is obvious from such cases that trial courts freely considered local ordinances without formal judicial notice. The appellate courts, however, seemed to reason that, since an appellate court could not take judicial notice of a municipal ordinance it could not construe any ordinance not formally admitted into the record. Instead, an ordinance not in the record would be deemed to contain what the trial court ruled that it contained. In this way an appellate court need not construe the ordinance nor take judicial notice of it to resolve the appeal.

ida, Inc. v. Homer[34] the Third District Court of Appeal held that it could not take judicial notice of a public official's duties under an ordinance in order to rule on an alleged breach of those duties. That same court held in *Town of Medley v. Caplan*[35] that even though a copy of the disputed ordinance was attached to the complaint, failure to properly admit it into evidence would void the trial court's determination of its unconstitutionality.[36]

Several cases expressed the view that where the ordinance did not appear in the record, no reversible error could be found on that record. Thus, in *State* ex rel. *Foster v. Yocum*[37] appellant claimed that the municipal ordinance under which he had been convicted for disorderly conduct was void for vagueness, but the court found no error because the ordinance had not been admitted into evidence and thus was not properly before the court. In *Stephens v. Anderson*[38] the supreme court refused to consider attacks on both a conviction for loitering under an ordinance and a subsequent incarceration under an ordinance for failure to pay the fine because neither ordinance was in the record on appeal.[39]

In the instant case the supreme court examined the above cases and recognized an inconsistency in the application of the *Freeman* rule.[40] Although trial courts had freely utilized local criminal,[41] traffic,[42] and regulatory[43] ordinances in deciding cases,[44] appellate courts had invoked the *Freeman* rule

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34. 249 So. 2d 732 (3d D.C.A. Fla. 1971).

35. 191 So. 2d 449 (3d D.C.A. Fla. 1966).

36. *Id.* at 450.

37. 140 Fla. 53, 191 So. 35 (1939).

38. 75 Fla. 575, 79 So. 205 (1918).

39. Similarly, in Haverty v. State, 258 So. 2d 18 (2d D.C.A. Fla. 1972), appellant attacked the municipal ordinance that was the pretext for a search, arrest, and conviction for marijuana possession. The Second District Court of Appeal affirmed his conviction on grounds that he had not preserved the point for appeal, since the ordinance attacked had not been made a part of the record. *Id.* at 19-20.

40. 273 So. 2d at 753.

41. State *ex rel.* Foster v. Yocum, 140 Fla. 53, 191 So. 35 (1939); Stephens v. Anderson, 75 Fla. 575, 79 So. 205 (1918); Freeman v. State, 19 Fla. 552 (1882); Haverty v. State, 258 So. 2d 18 (2d D.C.A. Fla. 1972).

42. City of Miami v. Thigpen, 151 Fla. 800, 11 So. 2d 300 (1943).

43. Conrad v. Jackson, 107 So. 2d 369 (Fla. 1959); State *ex rel.* Kay v. City of Miami, 158 Fla. 26, 27 So. 2d 413 (1946); City of Opa-Locka v. Trustees of Plumbing Indus. Promotion Fund, 193 So. 2d 29 (3d D.C.A. Fla. 1966); Town of Medley v. Caplan, 191 So. 2d 449 (3d D.C.A. Fla. 1966).

44. No Florida court has addressed itself to why trial courts repeatedly have dealt with ordinances not in the record, notwithstanding the invocation of *Freeman* at the appellate level. Presumably, trial judges have assumed ordinances to be part of the law known to them because they are judges. The court below in the instant case suggested this was so, saying: "Yet we have looked through the records of several cases involving arrests on municipal traffice ordinances, and find none in which the State has proved, or the defense has demanded proof of, the ordinance." 256 So. 2d 32, 35 (2d D.C.A. Fla. 1971). "Perusal of other files in which arrests by city police have served as the basis for seizures suggests that ordinances are in many places so conveniently codified that they are in fact judicially noticed without objection." *Id.* at 36.

to deny review of ordinances[45] or to limit the scope of review.[46] The court observed that the rule had never been applied to undo the application of an ordinance by a trial court charged with enforcing the ordinance,[47] and concluded that, despite the broad prohibitive language used in opinions invoking the rule, those cases had permitted local courts to notice local ordinances.[48]

The instant court further noted that the rule had lost its basis in reason.[49] Formerly, ordinances were treated like private and foreign laws because all were relatively inaccessible,[50] but the legislature had changed by statute the treatment of private laws,[51] laws of foreign countries,[52] and laws of sister states.[53] In addition, the court observed that municipal ordinances had become more readily accessible than when the *Freeman* rule was adopted.[54] From these developments the instant court concluded that the tendency of the legislature and the courts had been toward greater latitude in judicial cognizance and proof.[55] In the interests of expediency, economy, and efficiency the supreme court therefore held that trial courts may take judicial notice of ordinances they are charged with enforcing.[56] The court qualified its ruling, however, by expressly providing that such notice-taking should not be obligatory, but should depend on the discretion of the trial court.[57]

Two features of the new rule diminish its reforming effect. First, the phrasing of the rule in terms of a local court enforcing local ordinances[58] necessarily implies that a court without particular responsibility for an ordinance may not take judicial notice of it. In the sense that courts are vertically arranged in a trial, appellate, supreme court progression,[59] this locality restriction is with-

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45. *See, e.g.*, State *ex rel.* Kay v. City of Miami, 158 Fla. 26, 27 So. 2d 413 (1946); State *ex rel.* Foster v. Yocum, 140 Fla. 53, 191 So. 35 (1939).

46. *See, e.g.*, Conrad v. Jackson, 107 So. 2d 369 (Fla. 1959); City of Opa-Locka v. Trustees of Plumbing Indus. Promotion Fund, 193 So. 2d 29 (3d D.C.A. Fla. 1966).

47. 273 So. 2d at 755. The court distinguished Town of Medley v. Caplan, 191 So. 2d 449 (3d D.C.A. Fla. 1966), where the Third District Court of Appeal reversed a circuit court's ruling of unconstitutionality of an ordinance because it was not properly in the record, on the ground that the ultimate result of the circuit court was affirmed by the appellate court. 273 So. 2d at 755.

48. 273 So. 2d at 755.

49. *Id.*

50. *See* City of Austin v. Walton, 68 Tex. 507, 509, 5 S.W. 70, 71 (1887); C. McCormick §335, at 776.

51. Fla. Stat. §92.01 (1971).

52. Fla. Stat. §92.04 (1971).

53. Fla. Stat. §92.031 (1971).

54. 273 So. 2d at 755.

55. *Id.*

56. *Id.*

57. *Id.* Although subject to criticism, the rule adopted in the instant case reflects the majority view among jurisdictions permitting judicial notice of ordinances by court rule. *See* text accompanying notes 18-21 *supra*.

58. The instant court stated: "[T]herefore, we can see no reason for disallowing a trial court to take judicial cognizance of those ordinances which it is charged with enforcing if convenience and expediency so suggest." 273 So. 2d at 755.

59. *See* Fla. Const. art. V, §§3(b), 4(b), 5(b), 6(b) (1972).

out substantial limiting effect, since Florida follows the general rule that an appellate court may take judicial notice of any matter that a lower court subject to its review could have judicially noticed.[60] Presumably then, in a case like *Town of Medley v. Caplan*[61] where an ordinance was attached to the complaint though never formally introduced into evidence, or like *Conrad v. Jackson*[62] where both parties quoted the ordinance in their briefs, the appellate court may now take judicial notice of the ordinance because the trial court could have done so. In this vertical sense the new rule will have a liberalizing effect notwithstanding its restrictive language. However, in the sense that courts are horizontally arranged with similar legal but different geographical jurisdictions,[63] the locality limitation will have a definite restricting effect on the new rule. Judicial notice is intended to be a convenient tool to economize in judicial time and resources.[64] The instant rule, however, implies that judicial notice of an ordinance will be convenient and expedient only if the court is charged with enforcing the ordinance.[65] Thus, if an ordinance is issuable and the case is lodged in a court responsible for enforcing the ordinance,[66] the court could save time and expense by taking judicial notice of the ordinance. However, if the same litigants choose a forum more convenient but not charged with enforcing the ordinance,[67] this rule would not permit judicial notice and formal proof of the ordinance would be required.[68] A further inconsistency of the locality limitation arises because a geographically remote district court of appeal in the vertical arrangement may notice a local ordinance, but a neighboring trial court in the horizontal arrangement may not.[69]

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60. Schriver v. Tucker, 42 So. 2d 707 (Fla. 1949).

61. 191 So. 2d 449 (3d D.C.A. Fla. 1966).

62. 107 So. 2d 369 (Fla. 1959).

63. Florida has 67 counties grouped in 20 judicial circuits, FLA. STAT. §§26.01, .021 (Supp. 1972) and 4 appellate districts, FLA. STAT. §§35.01-.042 (1971).

64. *See, e.g.*, Keeffe, Landis & Shaad, *Sense and Nonsense About Judicial Notice*, 2 STAN. L. REV. 664, 665 (1950); Kongsgaard, *Judicial Notice and the California Evidence Code*, 18 HASTINGS L.J. 117, 118 (1966).

65. 273 So. 2d at 755.

66. FLA. STAT. §47.011 (1971) provides: "Actions shall be brought only in the county . . . where defendant resides, or where the cause of action accrued, or where the property in litigation is located. . . ."

67. That convenience of the parties is a consideration is shown in FLA. STAT. §47.122 (1971), which provides: "For the convenience of the parties or witnesses or in the interest of justice, any court of record may transfer any civil action to any other court of record in which it might have been brought."

68. An example may illustrate the inconsistency of the rule. If two Hillsborough County residents have a dispute arising in Pinellas County and involving a St. Petersburg municipal ordinance, they may litigate in Pinellas County and, under the new rule, the court may take judicial notice of the issuable ordinance. However, if they choose to litigate in a more convenient Hillsborough County court, that court, having no duty to enforce the issuable St. Petersburg ordinance, may not take judicial notice of it.

69. The Uniform Rules of Evidence and states adopting or drawing upon them have eliminated any distinction as to locality: "Judicial notice may be taken without request by a party of . . . duly enacted ordinances and duly published regulations of governmental subdivisions or agencies of this state . . . ." UNIFORM RULES OF EVIDENCE 9(2). *See also* CAL. EVID. CODE §462 (West 1968); N.J. R. EVIDENCE 9(2).

The second limiting feature of the new rule is that the taking of judicial notice is left to the discretion of the trial judge.[70] If municipal ordinances are the peculiar law of the forum as to local courts,[71] it is reasonable to expect that the judge will judicially notice local ordinances as part of his duty to know and apply the law.[72] The discretionary reservation of the new rule suggests that the judge need not do so. An alternative to expecting the judge to notice ordinances on his own is the approach taken by the drafters of the Uniform Rules of Evidence. Rule 9 permits a judge to take notice of ordinances on his own,[73] but also requires that he take judicial notice when requested by a party and when certain requirements of notice have been met.[74] A number of states have followed this approach in adopting or drawing upon the Uniform Rules.[75] However, aside from the general observation of a trend toward trial court freedom,[76] the instant court provides no rationale for restricting the rule by leaving judicial notice to the judge's discretion.

In receding from a line of precedents and by adopting a new rule, the instant court projects a willingness to streamline practice to conform with needs and reason. That streamlining is illusory, however. The court purports to limit application of the rule to trial courts with particular duties to enforce ordinances, but those courts have freely noticed ordinances in the past. Therefore the real benefit of the rule will accrue to reviewing appellate courts, which may now take judicial notice of those ordinances. However, since an appellate court cannot take notice of an ordinance if the trial court could not have done so, disparity is created by the new rule. Thus, the same municipal ordinance will be treated differently in the appellate court, depending on where the case was originally tried.[77] Similarly, judicial administration is not streamlined by deferring to the trial court's discretion in notice-taking. The instant rule permits the judge to elect whether to fulfill his duty to know and apply the law. Reason suggests that where an ordinance is readily available to the judge or

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70. 273 So. 2d at 755.

71. Tipp v. District of Columbia, 102 F.2d 264, 265-66 (D.C. Cir. 1939).

72. *See* text accompanying notes 7 and 8 *supra*.

73. UNIFORM RULES OF EVIDENCE 9(2).

74. UNIFORM RULES OF EVIDENCE 9(3) provides: "Judicial notice shall be taken . . . if a party requests it and (a) furnishes the judge sufficient information to enable him properly to comply with the request and (b) has given each adverse party such notice as the judge may require to enable the adverse party to prepare to meet the request."

75. *See, e.g.*, CAL. EVID. CODE §452 (West 1968); HAWAII REV. STAT. §622-13 (1968), *as amended* Hawaii Laws, 1972, ch. 104, §2(h); N.J. R. EVIDENCE 9(2).

76. 273 So. 2d at 755.

77. Using the example in note 68 *supra*, if the case is tried in Pinellas County, both the trial court and the appellate court may take judicial notice of the ordinance. If the case is tried in Hillsborough County, neither the trial court nor the reviewing appellate court may take judicial notice of the ordinance. If the Hillsborough County court informally dealt with the ordinance as has commonly occurred in the past, the appellate court may refuse to consider the ordinance or may adopt the interpretation given the ordinance by the trial judge. Thus, the same issuable ordinance may be given distinctly different interpretations by the appellate court because trial in one venue permits wide opportunities for notice, while trial in another venue restricts or eliminates such opportunities.

has been brought to his attention, the parties have a right to expect him to take judicial notice. Committing the notice of all municipal ordinances to the judge's discretion merely encourages continued neglect of judicial notice as a tool for judicial efficiency.[78]

By abandoning the old rule the court has demonstrated a willingness to move forward; by restricting its new rule the court manifests a reluctance to move too boldly. The limitations imposed, however, lack substantial value in practice or in reason, particularly when compared to broader guidelines prevailing in other jurisdictions. By citing the convenience of the trial court as a consideration to be weighed, the court has reserved a rationale it may use to further liberalize judicial notice. This rationale should be used to extend the instant rule in two steps, taken together or separately. First, the locality limitation should be removed in the interests of horizontal and vertical uniformity so that all courts may take judicial notice of municipal ordinances. Second, the discretion of the trial judge should be narrowed in those instances where a party has requested judicial notice, given notice of such request to the opposition, and made some showing of the appropriateness of such judicial notice.[79] By thus extending the instant rule within the scope of its stated rationale, the court will more realistically provide for added convenience, economy, and flexibility in the trial of actions.

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78. It is not suggested that all discretion is inappropriate. Even under the Uniform Rules where request is made for judicial notice, the judge decides whether he has been sufficiently informed to merit taking notice. UNIFORM RULES OF EVIDENCE 9(3), 10. Nevertheless, whether from an unawareness of the extent of their powers to take judicial notice or from a fear of reversal, courts encumber the judicial process by their failure to use this tool. *See* 9 J. WIGMORE, §2583; Keefe, Landis & Shaad, *supra* note 64, at 665-66. For the view that the danger may be overuse of judicial notice, see Morgan, *Judicial Notice*, 57 HARV. L. REV. 269, 292-94 (1944).

79. It might seem easier merely to prove the ordinance, as has traditionally been required. However, proof of an ordinance like any other fact raises questions as to how it is to be treated. Can it be believed or disbelieved by the jury like other facts? Can the jury take a copy of the ordinance into the jury room like other exhibits? *See* Kongsgaard, *supra* note 64, at 129-30. A California court held that the sole purpose of admitting an ordinance into evidence was to inform the judge as to the law, and such ordinances could not go to the jury room. Neuber v. Royal Realty Co., 86 Cal. App. 2d 596, 622, 195 P.2d 501, 518 (2d Dist. 1948). The California Evidence Code subsequently eliminated the problem by permitting judicial notice of municipal ordinances in the judge's discretion or on a party's request. *See* CAL. EVID. CODE §452-53 (West 1968).