

## MISSION, PRESIDIO AND PUEBLO

### Notes on California Local Institutions Under Spain and Mexico.

The irresistible appeal of heroism, adventure and romance has long focused popular attention on two sharply contrasted periods of California History—on the growth and glory of the Spanish Missions; on the virile days of '49. Between the two lies the story of Mexican California, when democratic ideals attracted the imagination of an emancipated but untrained people, while their ineptitude for self government, and their passion for political intrigue frustrated all their efforts for national advancement.

The documentary material on the pre-American régime must be sought in the official archives of California, Spain and Mexico, and historians are working diligently in all these fields. Although the San Francisco fire of 1906 destroyed many original sources, their loss can partly be made good by the copies and abstracts in the Bancroft Library at the University of California; county archives, also, still contain some pre-American records. All this material is being used again and again, as different students analyze and reassemble it according to their special themes. Bancroft, first of all, presented it with extreme minuteness in the footnotes to his History of California, and his references will always serve as an invaluable key to the original documents.

Many lines of research attract the student of this period. One, of great importance, is the development of everyday civic life and organization among the people of California during the stormy years of Spanish and Mexican administration. The topic is considered by Bancroft in various sections of his exhaustive history, and it has attention in F. W. Blackmar's Spanish Institutions of the Southwest, and J. B. Richman's California Under Spain and Mexico. An excellent discussion of certain aspects can be found in a doctoral dissertation, From Alcalde to Mayor, by James R. Robertson, now professor of history at Berea College. This thesis, presented to the University of California in 1908 is, unfortunately, still in manuscript.

But with all that has been written on the formative years, no one has yet told a straightforward, definite story of the

genesis of the towns, and the processes of civil growth. The sketch that follows seeks to indicate what can be constructed from material that has already been the fruit of research in the archives of the Spanish and Mexican periods.

From whatever angle one approaches the beginnings of California, the white walled Missions dominate the picture. In that long line of establishments, from San Diego to Sonoma, there was everywhere a definite, organized community life, authoritative and patriarchal, single minded in its ecclesiastical ideals, productive of industry and material prosperity. This life was based and developed on the theory that in two generations, at longest, the Christianized Indians would acquire the simpler arts of civilization, and a practical capacity for community life. When that time should come, civic self government should supersede ecclesiastic tutelage.

Supporting the Missions were the four presidios, San Diego, Santa Barbara, Monterey and San Francisco. They were distinct in their official life and under military control while military control should be needed, although, like the Missions, they were destined to future reorganization upon a civic status. If the Indian neophytes of the Missions provided unpromising material for independent citizenship, the riff-raff soldiers of the presidios were but a few degrees better. The officers, of gentler blood, formed a more aristocratic circle, and held themselves superior to priest as well as to common soldier.

The strategic positions occupied by the presidios were not well fitted for agricultural development, and separate farming communities were required to supply provisions. The establishment of these centers illustrates one of the marked differences between the advance of the Spanish and American frontiers. The pioneer settlement of the Americans was haphazard, chosen by necessity, or in accordance with the preference of individual frontiersmen. The Spanish settlement was a deliberate creation by authorities who estimated the needs of the public service, surveyed available situations, and disposed their civil groups with the same foresight that had dictated the location of the military posts.

In accordance with this careful system the pueblo of San José was founded November 29, 1777.<sup>1</sup> It was a civil community from the very first, but the exact status of early

<sup>1</sup> H. H. Bancroft, *History of California*, I, 312.

pueblos was not defined until a new and important reglamento on the government of California was drawn up by Governor Neve on the first of June, 1779.<sup>2</sup> The second pueblo, Los Angeles, was founded in September, 1781.<sup>3</sup> The third civil settlement was Branciforte, founded July, 1797. This was technically called a villa, and its organization differed somewhat from the two pueblos, as it was designed to serve as a point for coast defence as well as industrial colonization.<sup>4</sup> Robertson says that it followed the "Plan of Pitic," devised for certain outposts in Mexico, where Indian hostilities demanded military preparedness. In spite of brilliant hopes for its future, Branciforte soon became a neglected, disorderly and ill reputed town.

The Spanish pueblo was a very definite, well developed civic unit.<sup>5</sup> Even in the formative days of California it was laid out on a standardized plan, with its plaza and official center, its surrounding house lots, or solares, and its outer ejidos, or commons. The actual farms, suertes, were assigned from the land best fitted for agriculture, and beyond them the dehesas, pasture and timber, stretched to the municipal boundaries. Four square leagues of land was the customary extent of a California pueblo, and a certain portion of that was retained in public ownership for purposes of revenue, and for the needs of later settlers. The exact definition of these public lands, and the laws regulating their disposition became matters of the utmost importance in their bearing on land titles at a later period, and the carelessness with which boundaries were originally marked gave rise to much confusion and litigation.

As a body politic the normal Spanish pueblo had ample privileges of self government, and elected its own chief magistrates and town council. In large towns the ayuntamiento (council) might have as many as ten regidores (councilmen), and a sindico, or attorney. The chief magistrates were the alcaldes, one or two in number, according to the size of the town. The alcaldes were members of the council; the first or

<sup>2</sup> Bancroft, California, I, 333-338; J. W. Dwinelle, Colonial History of San Francisco, Addenda IV, 3-8.

<sup>3</sup> Bancroft, California, I, 344.

<sup>4</sup> Bancroft, California, I, 564-571; J. R. Robertson, From Alcalde to Mayor, 19

<sup>5</sup> Pueblo organization and administration are discussed by Richman and Blackmar. Dwinelle defines many terms, Colonial History, 7-12. The treatment is especially good in Robertson's thesis, From Alcalde to Mayor.

superior alcalde presided at the meetings, was the responsible executive of the municipality, and exercised judicial functions of great importance.

Neve's regulations for the early California pueblos provided that they should be furnished with ordinary alcaldes and other municipal officers, in proportion to the number of inhabitants, but that officials should at first be appointed by the governor. Local records show that in due time the towns elected alcaldes and two regidores, but throughout the Spanish period the governor actually continued his direct control by appointing special *comisionados*, with superior authority to that of the representatives of the people.

During this era the three villages struggled through trying times. The colonists, for all their carefully organized system, lacked the spirit that made the American pioneer a founder of community life within the wilderness. They worked without enthusiasm at their agricultural tasks and they often incurred official reprimands for disorder and dissipation. The story can be followed, in interesting detail, through the footnotes to Bancroft's annals of San José, Los Angeles and Branciforte, in the first and second volumes of his *History of California*.

Mexico began life as an independent nation in 1821. In April, 1822, the officials of California declared their adherence to the new government. It was important to send at once a deputy to the Mexican Congress, and the first general election in California was held within a few weeks. Five electoral districts were designated, one for Los Angeles, and four for the presidios and the communities within their several jurisdictions. San Francisco included four missions, the pueblo of San José and the villa of Branciforte: Monterey embraced six missions, Santa Barbara five, San Diego four. From the records accessible to Bancroft, he gathered that within each electoral district separate elections were held at presidios, pueblos, and Missions (the Mission Indians participating), and that the men thus chosen met at the chief town of the district and selected one elector for the provincial gathering. The final meeting was held at Monterey, May 21, when the congressional deputy was elected.<sup>6</sup>

In September a special *comisionado* arrived from Mexico to guide the people in developing the new constitutional meth-

<sup>6</sup> Bancroft, *California*, II, 454.

ods of government.<sup>7</sup> He interested himself especially in the establishment of a departmental legislature, and in fostering self government in the local communities.

Even prior to the independence of Mexico California had been entitled to a legislative assembly by the Spanish constitution of 1812. None had been organized, but now it was decided to create a diputacion without further delay. The five electors who had represented the local districts in choosing a congressional deputy were again summoned to Monterey, and on November 9 they organized the first legislature of California. Some changes of personnel were made at once, and a sixth member added to the house. Subsequent years brought modifications of title, membership and parliamentary regulations, but under one aspect or another the successors of this body functioned until the conquest of California by the forces of the United States.

The self governing prerogatives of the pueblos were distinctly strengthened by the new régime. The ayuntamientos of San José and Los Angeles, hitherto deficient in their quota of members, were increased by the addition of a *sindico* and a secretary, and established on a more effective basis. At the same time the *comisionados* were removed, and the local magistrates freed from their supervision.<sup>8</sup> As for Branciforte, the population was so small that the town was provided with a *subalcalde*, and attached to the civil jurisdiction of San José.<sup>9</sup>

Two other steps of the utmost importance were presently taken. One was the transformation of the military presidios into civil pueblos—the other was the secularization of the Missions. Both courses were adopted with the avowed intention of furthering the growth of institutional self government.

The change in the status of the presidios was gradually accomplished. Robertson says that in spite of the ill success of Branciforte, the same model of organization was followed in the presidial pueblos. In the process of transformation there were some mixtures of military and civil authority, and some passages of jealousy and friction, but by 1835 civil control was everywhere established, sometimes with a compromise by which

<sup>7</sup> Bancroft, California, II, 455-463.

<sup>8</sup> Bancroft, California, II, 462. In Los Angeles a *comisionado* still exercised certain functions even after this date (*ibid.*, 559-561).

<sup>9</sup> Bancroft, California, II, 626.

the military commander was elected alcalde, or left with jurisdiction over the soldier part of the population.<sup>10</sup>

At the presidio of Santa Barbara the first ayuntamiento was elected in 1826, although civil status was doubtful until legislative action of the diputacion in 1834.<sup>11</sup> Monterey elected a full ayuntamiento in 1827.<sup>12</sup> the first ayuntamiento in San Diego was installed in 1835.<sup>13</sup>

The establishment of municipal government in San Francisco is a subject that involves discussion of the entire system of Spanish municipal organization. It is much too technical for detailed treatment in this article. Civil organization is held to have commenced with an election in December, 1834, when the governor ordered the residents of the "county of San Francisco," with those of Contra Costa, Sonoma and San Rafael, to elect an ayuntamiento, which should reside at the presidio of San Francisco, and exercise the constitutional political functions of such a body.<sup>14</sup> The alcalde was entrusted with customary judicial authority, and the commandant of the presidio was restricted to actual military responsibilities.

This council was quickly superseded, for a census disclosed that the "population of San Francisco de Asis" warranted an ayuntamiento for the town proper, and one was presently elected. The second body had jurisdiction over the same outlying population, and Dwinelle calls it a "composite ayuntamiento," i. e.: the ayuntamiento of a pueblo to which were joined other small populations. He distinguishes the first as an "aggregate ayuntamiento," composed of several populations, each too small to have a council of its own.<sup>15</sup> The exact pueblo status of San Francisco became a celebrated point of controversy at a later date, when the Land Commission considered the claim of the city to four square leagues of pueblo land.

After the change to civil status all the presidios declined in military equipment, and finally lapsed into a pitiable condition of ruin and neglect.

Secularization of the Missions, long anticipated, was made

<sup>10</sup> Robertson, *From Alcalde to Mayor*, 19-20.

<sup>11</sup> Bancroft, *California*, II, 572; III, 655.

<sup>12</sup> Bancroft, *California*, II, 611.

<sup>13</sup> Bancroft, *California*, III, 615.

<sup>14</sup> Bernard Moses, *Establishment of Municipal Government in San Francisco*, 18.

<sup>15</sup> Dwinelle, *Colonial History*, 48, 49, Addenda XXIII, p. 37.

mandatory by a decree of the Mexican Congress of 1833. The result was a tragedy from every point of view. Any policy based on the ideal of self government among the Mission Indians was foredoomed to failure, and although Governor Figueroa, who was charged with carrying out the decree, made conscientious efforts to build up regular pueblo institutions on the Mission foundations, final results showed the futility of such an undertaking. Some community groups were established, with more or less of the functions of pueblo government, but their records are unsatisfactory and confused. With the final sale of Mission lands, their former sites became private ranches, and several Indian pueblos ceased to have independent existence.

The net result of municipal organization in the pre-American period can be gathered from the brief list of communities entitled to representation in the last legislative assembly, elected October, 1845.<sup>16</sup> These were the original pueblos of Los Angeles and San José, the villa of Branciforte, presidial pueblos of San Diego, Santa Barbara, Monterey and San Francisco, and, in addition, Sonoma, San Juan Bautista, San Juan Capistrano and San Luis Obispo. The four last mentioned were outgrowths of the old Mission establishments. When the status of early pueblos was reviewed during the sessions of the United States Land Commission, the pueblo standing of Sonoma was recognized, and that of San Luis Obispo was rejected. No claims were presented that involved the status of other Mission pueblos, nor of Branciforte, and the pueblos formally recognized by the Commission were Sonoma, San Francisco, San José, Monterey, Santa Barbara, Los Angeles and San Diego.<sup>17</sup>

Having in mind this brief outline of the beginnings of the different pueblos, it will be of further interest to trace the internal administration of municipal affairs. It is usually said that within the pueblos of California the alcaldes were the dominating and arbitrary authorities, but, strange to say, a strict interpretation of institutional history shows that in California the importance of the alcalde fell far below the popular imagination.

We have seen that during the Spanish period the alcaldes

<sup>16</sup> Bancroft, California, IV, 539-540; Archives of California, Legislative Record, IV, 89-91; MS in the Bancroft Library.

<sup>17</sup> Bancroft, California, VI, 566-569.

of the three civil communities were obliged to yield precedence to the *comisionados* appointed by the governor.

After the separation from Spain there came fifteen years when institutional government was fostered: old *ayuntamientos* were strengthened, new councils were established in the former *presidios* and in some of the secularized Missions, and *alcaldes*, in general, were allowed their constitutional privileges.

But during this time Mexico was not finding her experiment in federal organization altogether satisfactory. A strong reaction towards centralization set in, and in 1836 and 1837 laws were enacted that seriously curtailed the self governing privileges of small communities. These were no longer permitted to elect their magistrates, the *ayuntamientos* were abolished, and municipal authority was vested in a justice of the peace who was appointed by the prefect of the district, and directly responsible to the local sub-prefect. Elected officers were allowed only in the capital of a department, ports with a population of four thousand, interior towns of eight thousand, and towns which had *ayuntamientos* previous to 1808.

The effect of the laws of 1837 was to deprive California towns of *alcaldes* and *ayuntamientos*, and place them under a centralized prefecture system. Two districts were created by the junta (legislative assembly), and the line of division placed at San Luis Obispo.<sup>18</sup> Each district had a head town, and was under the authority of a prefect appointed by the governor, and approved by the superior government. The districts were again subdivided into *partidos* which were under the charge of sub-prefects appointed by the prefects. The sub-prefects nominated justices of the peace for the towns of their *partidos*, and appointment was made by the prefect of the district. The justices, "under subjection to the sub-prefect," exercised certain "faculties and obligations" that pertained to the *alcaldes* and *ayuntamientos* of larger towns.<sup>19</sup> Governor Alvarado said in a message of February 16, 1840,<sup>20</sup> "There is no *Ayuntamiento* whatever in the Department, for there being no competent number of inhabitants in any of the towns (*pueblos*) as provided by the Constitution, those then existing had to be dis-

<sup>18</sup> Bancroft, California, III, 585.

<sup>19</sup> See Digest of the Laws of 1837, in J. Ross Browne, Report of the Debates... on the Formation of a State Constitution, Appendix, pp. xxxi-xxxiv.

<sup>20</sup> Dwinelle, Colonial History, Addenda, L, p. 70.

solved; and only in the Capital there ought to be one of such bodies." Monterey, then, was entitled to elect the constitutional representative magistrates, but the records indicate that no advantage was taken of the privilege; the ayuntamiento, like those of other towns, was discontinued, and affairs placed in the hands of a juez de paz.<sup>21</sup>

The prefecture system was temporarily abolished in 1844. Santa Anna was then in control of national affairs, and had promulgated the "Bases of Tacubaya", a new scheme of political organization.<sup>22</sup> This change gave the governor of California an increase in power,<sup>23</sup> and the incumbent, Manuel Micheltoarena, ordered that in December, 1843, ayuntamientos should again be elected in Monterey and Los Angeles, and first and second alcaldes should be elected in San Diego, Santa Barbara, San Juan, Branciforte, San José, San Francisco and Sonoma.<sup>24</sup> The new system went into effect on the first of January, 1844, and continued until July, 1845. In the meantime Santa Anna fell from power, Micheltoarena was displaced by a new governor, the organization of 1837 was reaffirmed by the legislative assembly, and the prefecture system restored.<sup>25</sup>

In this readjustment the First District, Los Angeles, had the partidos Los Angeles, Santa Barbara and San Diego: the Second District, Monterey, was divided into the partidos of Monterey and Yerba Buena. Monterey, alone, was given a prefect: other partidos had sub-prefects. The municipal organization granted by Micheltoarena to Los Angeles and Monterey was, however, confirmed, and the two towns retained the full pueblo equipment of ayuntamiento and alcaldes. Justices of the peace were to have charge in other communities, and in each partido (other than Monterey and Los Angeles), there was to be a municipal junta (assembly), consisting of the justices of the peace and two citizens, presided over by the sub-prefect. The local records of the smaller communities are so incomplete that it would be exceedingly difficult to evolve a distinctive study of the work of the juez de paz. Broadly speaking, his duties corresponded to those of an alcalde. In some respects

<sup>21</sup> Bancroft, California, III, 676. "Local Annals," as analyzed for this decade, show the universal adoption of the prefecture system.

<sup>22</sup> T. H. Hittell, History of California, II, 325.

<sup>23</sup> Hittell, California, II, 334.

<sup>24</sup> Dwinelle, Colonial History, Addenda LVII, p. 85.

<sup>25</sup> Bancroft, California, IV, 532-533.

he had greater initiative, because there was no *ayuntamiento* to decide on local regulations. On the whole, the direct supervision of the sub-prefect made the justice distinctly subordinate to the higher authorities. This system remained practically unchanged for another twelve months, and was, therefore, in force at the date of the American occupation, July 7, 1846.

For these two years and a half full pueblo organization directed the local affairs of Los Angeles and Monterey. The characteristic functions and privileges of *alcaldes* and *ayuntamientos* can legitimately be portrayed against the background of these two municipalities, but they cannot be transferred to any other town in California, and to designate the local administration of the period as the "alcalde system" is a grave misnomer. It was a centralized "prefecture system", with local autonomy only in the two most important communities.

This is to speak according to the letter of the law. In actual practice it appears that the people clung tenaciously to the time honored title of "alcalde," and justices were often addressed after that fashion. The testimony of old residents, as given in the case of *The United States vs. José Limantour*, shows that in the jurisdiction of San Francisco, at least, the citizens made little distinction between the years when they were ruled by *alcaldes* of their own selection, or justices under subjection to the sub-prefect. Travelers almost invariably called the magistrates *alcaldes*. Even historians as a rule overlook the fact that after the enforcement of the laws of 1837 *alcaldes* disappeared entirely until 1844, were then generally reinstated for only eighteen months, and were finally abolished altogether except in Monterey and Los Angeles. In spite of the niceties of documentary criticism, the *alcalde* and the *ayuntamiento* have been enshrined as the characteristic local institutions of California.

What then, shall we say of the *alcalde*? That, in truth is another story, for tradition, and statute, documentary record, and travelers' gossip provide rich material for reconstructing his picturesque and delightful figure. He was called upon to present in his own person an example of well regulated demeanor and attention to business; to encourage industry, to restrain vice, and to punish crime.<sup>26</sup> He presided over the

<sup>26</sup> See the admonitions of Governor Borica to an *alcalde* prior to 1800, Hittell, California, I, 594.

deliberations of the ayuntamiento, he poured oil upon the troubled waters of domestic maelstroms. He had great authority in the distribution of public land, he drew up contracts, he safeguarded the rights of orphans. He received the laws and orders made by higher authority, then summoned the citizens with the beat of a drum, and promulgated the new regulations by word of mouth.<sup>27</sup> When neighbors fell out and invoked the law, their first recourse was to the alcalde, who conducted a trial of conciliation. Each side selected an arbitrator, the dispute was thoroughly aired, and judgment rendered by arbitrators and alcalde. No costs attended this hearing, which was designed to give prompt justice without the burden of expense. The verdict, however, was not binding, and either party might demand a more formal trial. The alcalde presided over the "verbal processes," trials of minor civil and criminal suits, with an enlarged board of arbitrators who rendered a binding verdict.

An elaborate system of higher courts was authorized for California by constitutional enactment, and some appointments appear to have been made. It is doubtful, however, that the judges ever performed any effective service.<sup>28</sup> In the absence of superior tribunals, the ranking, or first alcaldes in California were authorized to hold courts of first instance for the trial of cases of major importance. This function was especially defined in the orders of Governor Micheltorena, in 1843,<sup>29</sup> and upon it was based the most important judicial position of the Mexican alcalde, and of the American alcaldes who served during the period of transition.

The alcalde's judicial authority could extend far beyond the corporate limits of his pueblo, and Dwinelle cites original documents that define the terms applying to his "jurisdiction."<sup>30</sup> It can readily be seen that the alcalde was a person of importance—even his silver headed cane, sent by the hand of a subordinate, was potent to summon the citizens to his presence. He was a busy magistrate, also, but he had only

<sup>27</sup> Reminiscences of R. F. Peckham, in *San José Pioneer*, July 7, 1877, This custom explains the lack of collected or printed statute law that astonished the Americans.

<sup>28</sup> Bancroft, *California*, IV, 531; Frederic Hall, *History of San José*, 169; W. H. Davis, *Sixty Years in California*, 105; Willoughby Rodman, *History of the Bench and Bar of Southern California*, 32.

<sup>29</sup> Dwinelle, *Colonial History*, Addenda LVII, p. 85.

<sup>30</sup> Dwinelle, *Colonial History*, Addenda XXXIII, p. 51.

honor, not salary, for his recompense, and acceptance of the office was compulsory.

The duties of the ayuntamientos were such as might be expected from a town council that directed municipal affairs. The limits of this article will not permit a discussion of any especial functions, of financial methods, of the picturesque "judges of the plains," and "judges of the water." Neither can we speak of the great ranchos, and life as it developed there. An end must be made. But first a word of interpretation.

We have traced the civic institutions of California for nearly seventy years. They were well conceived, well adapted to the needs of a colonial outpost. They were fairly well administered, and yet at the close of Latin-American rule we find a scant dozen civic centers, without physical comforts, or community ambitions, with no pride in the adventures of the past, with no impulse toward improvement in the future. Political unrest, revolutionary intrigue, personal and sectional jealousies absorbed the energies of the citizens. They were strangers to the impulse that leads the frontiersman of another race to put his labor, his sweat, his hope, his life itself into the soil of a virgin land. With all their traditions as conquerors, and the fine organization of their practiced systems, they might have founded a prosperous colonial life upon the labor of gentle and teachable natives. When the Indians failed them, their whole scheme crumbled. Pride and indolence forbade them to labor with their own hands, and all the industries of the Missions withered into ruin. In the garden spots of a generous country, the Californians lived on rude and meager fare. Their mighty ranchos gave them beef, and beef alone. They developed no life that brought northward fellow countrymen to share in upbuilding their towns and strengthening their borders. California had no voice that attracted new settlers from the mother country, yet at the same moment California called aloud to men of courage and energy from all the adventuring nations of the earth!

When the change of flags came, in 1846, international law prescribed that local municipal institutions should be perpetuated. As we have seen, the prefecture system was actually in vogue, but this the Americans ignored altogether. Following the precedent they found at Monterey, they placed alcaldes in charge of the other towns, whether large or small, with coun-

cils, in some cases, to act in concert with them. Thus the Spanish tradition, rather than the Mexican system, bridged the gap between Latin and Anglo-Saxon, and alcaldes ruled in California until the days of the commonwealth.

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