

PROFILE

by Dennis F. Hernandez

Los Angeles County's First Judge

Among other significant accomplishments, Judge Olvera upheld the 1849 California Constitution by requiring bilingual accommodation in English and Spanish



THE YEAR WAS 1850, and Peter H. Burnett, the newly elected governor of California, which had recently been admitted as the 31st state of the United States, signed the law creating 27 counties, including the county of Los Angeles. In February of that year, a group of leading Angelenos met to select a slate of candidates to run in the county's first election. The group, referred to as a "secret junta," included Abel Stearns, Benjamin Hayes, Jonathan Temple, Benjamin Davis Wilson and Agustin Olvera.¹ Olvera was an unusual candidate in the newly formed county government. After all, the United States had just defeated Mexico in 1848, and Olvera was part of Alta California's governing elite, having served as secretary to the departmental assembly² before the war, a land commissioner for Mexican Governor Alvarado, and a justice of the peace in Los Angeles.³ After the cessation of hostilities with Mexico, Olvera was able to quickly ingratiate himself with the new powers. He had participated in the negotiation

of the Treaty of Cahuenga, which ended the war in California, and thereafter the first U.S. Military Governor Bennet Riley appointed Olvera to be a Judge of the First Instance for Los Angeles during the transition in 1849.⁴

Olvera also had a vested interest in the newly formed government. During his time as a land commissioner, he had acquired extensive land holdings, such as *la Misión Vieja*, which encompassed present-day Mission Viejo; Cuyamaca Rancho, which includes Julian, Cuyamaca Rancho State Park, Lake Cuyamaca, and Cuyamaca Peak in San Diego County; and part of Rancho Cienega, encompassing present day Baldwin Hills district, Leimert Park, Ladera Heights, and Windsor Hills.⁵

Agustin Olvera not only participated in the transition of power but also became an important member of the political establishment of Los Angeles. In fact, the meeting of the secret junta of leading Angelenos took place at his home. The slate of candidates put forward by the junta included Olvera for county judge, Benjamin Hayes for county attorney, Benjamin D. Wilson

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Vineyards (lower right) blanket the area between the City of Los Angeles and the Los Angeles River in Marshall J. Miller's 1931 model of Sonora Town, the first plaza area in Los Angeles, as it appeared in 1850.

for county clerk, and George F. Burrill for county sheriff. On April 1, 1850, the entire slate won without opposition, and Olvera was elected as the first Los Angeles County judge.

Under the 1849 California Constitution, the county courts had original jurisdiction in cases of forcible entry and detainer, insolvency, actions to prevent or abate nuisances, special cases and proceedings not otherwise provided for,⁶ and such criminal jurisdiction in cases arising in justice and other inferior courts. The county judges also performed duties as probate judges and had the power to issue writs of habeas corpus in their respective counties.⁷

In the first two years after the formation of the county, Olvera served as county judge and as chief executive of the county when the judicial, legislative, and executive branches of county government were combined into a court of sessions. The court of sessions was largely a provisional device to govern California counties prior

to the creation of boards of supervisors in 1852. The duties of the court of sessions included criminal proceedings and civil administration, but the daily agenda in legislative matters was minimal at first when the population was small and county services were few beyond judicial matters.⁸

On June 24, 1850, the first meeting of the court of sessions was held with the Honorable Agustin Olvera as presiding judge, and Jonathan R. Scott and Luis Robidoux as associate justices. Associate justices were drawn from among the county's six townships. They were responsible for all criminal cases, impaneling juries (including grand juries), overseeing probate actions, and filling vacancies in county offices. They also approved county expenditures and the bonds of officeholders, and conducted other administrative business. As county judge, Olvera was also responsible for supervising the six county justices of the peace who were elected along with him. Each justice hired a constable to serve

warrants and arrest suspects. In addition, George T. Burrill, who was then county sheriff, was appointed interpreter for the court—an important appointment since Olvera could not speak English at that time and only one of the associate justices could speak Spanish.

Under the newly formed government, some practices that had been established under Mexican law were continued. For instance, *jueces del campo*, or judges of the plains, were appointed to be present at the annual roundup of cattle and gathering of horses to give an accurate account of the stock. These judges were plains riders, and there were few written rules for guidance.⁹

The county courts had limited resources to serve the county, which then included present-day Los Angeles, San Bernardino, and Orange counties. Judges were few, and district attorneys and lawyers had to meet few professional requirements to serve in the courts. Court sessions were often quite chaotic, with judges and lawyers

known to conceal firearms during trials. Some attorneys and judges were seldom sober and some were not very particular about their personal appearance. One judge who was trying to restore order and decorum ordered that “hereafter attorneys while in attendance upon court shall wear a coat of some kind and will not be allowed to rest their feet on the tops of tables or whittle or spit tobacco juice on the floor or stove.”¹⁰

One of the first challenges for the new court was to reconcile the newly enacted California Constitution and laws with the Mexican laws and decrees that had previously governed the territory. The area of law immediately in conflict was land title. After the cessation of hostilities in the Mexican War, Mexico ceded to the United States the territories of Alta California and New Mexico under the terms of the Treaty of Guadalupe Hidalgo. Under Articles VIII and IX of the treaty, the Californios—inhabitants who remained in the territories—were guaranteed free enjoyment of their liberty, religion, and property without restriction. Californios like Olvera who possessed land grants from the Mexican government believed their interests were protected under the Treaty.

The U.S. Congress, however, had other intentions. In May 1848, Articles VIII and IX were removed from the Treaty of Guadalupe Hidalgo before it was ratified by Congress. Then, in 1851, Congress enacted “An Act to Ascertain and Settle Private Land Claims in the State of California,” which stated that “all land claims in California derived from the Spanish and Mexican governments, were inchoate and imperfect, mere equitable claims.”¹¹ Congress established a land commission to review the land claims of the Californios and others. While the land commission approved two-thirds of the claims presented, the federal government automatically appealed all successful claims to the federal courts. The appeal process was lengthy—averaging about 17 years to complete—and expensive. Presenting land claims before the commission became quite a lucrative practice for some attorneys, who in some cases charged half of the land as a contingent fee for confirmation of the claim.

The other major challenge for the new court was to establish order and justice in a lawless and racially charged environment. As historian John Mack Faragher documents in his book *Eternity Street: Violence and Justice in Frontier Los Angeles*, the early years in Los Angeles

County were difficult as lawlessness and frontier justice reigned. First of all, enforcement resources were limited. The new sheriff was authorized to hire two deputies, which at the time was the totality of the county’s law enforcement. Killings on the streets of Los Angeles alone were said to have averaged one per day.

In response to the violence, vigilante groups were organized. In 1853, a group of citizens organized the Rangers, a semi-vigilante, quasi-social group to track down and chase criminals. These groups were known to arrange for vigilante trials and quick executions for those accused of crime. Between 1854 and 1855, the Rangers alone arranged for 22 trials and executions.¹² Some of these vigilante groups turned to mob violence. In 1871, in one of the most appalling episodes of collective violence, a mob descended on Los Angeles’ Chinatown and randomly shot, hung, and murdered 22 Chinese.¹³

During this time, nevertheless, Judge Olvera had a reputation of being well respected, helping to maintain order and efficiency in the courts. One historian noted that “Olvera and his cohorts did their best to keep the courts relatively free of rampant racism and bigotry that pervaded the region at this time.”¹⁴

During his time as county judge, Olvera made an effort to protect the rights of Spanish-speaking Angelenos to have their cases heard in their native language. The California Constitution of 1849 guaranteed that “All laws, decrees, regulations and provisions emanating from any of the three supreme powers of this State, which from their nature require publication, shall be published in English and Spanish.”¹⁵ California statutes also protected the rights of Spanish speakers in some counties. Article V of the statutes governing courts and judicial officers stated: “In the Counties of San Luis Obispo, Santa Barbara, Los Angeles, and San Diego, the proceedings may be in the English or Spanish language.”¹⁶ During his tenure, Judge Olvera was able to require that official county business be published in English and Spanish and that Spanish translators be available for county meetings. After his departure from the bench, however, these accommodations were no longer made available.¹⁷

Olvera served as judge of Los Angeles County until December 31, 1853, when his term expired. Olvera entered private practice in 1855 and, later that year, was elected to serve as a Los Angeles

County Supervisor.¹⁸

Agustin Olvera presided as county judge at a time when Los Angeles was a frontier town. He survived the transition from being a leading member of the Mexican elite in Alta California to becoming a member of the Los Angeles political elite during the early years of statehood, all the while maintaining his Spanish language and Californio traditions. He died in 1876 at the age of 58. In 1877, the Los Angeles City Council renamed Wine Street, on the north end of the Plaza and the historic center of Mexican Los Angeles, to Olvera Street in his honor. Today, Olvera Street stands as a monument to Agustin Olvera and the bilingual and bicultural foundations that he established for the courts of Los Angeles County.

¹ JOHN MACK FARAGHER, *ETERNITY STREET: VIOLENCE AND JUSTICE IN FRONTIER LOS ANGELES* 213 (2016) [hereinafter FARAGHER].

² Alta California was considered a “department” under Mexican law.

³ Supervisor Agustin Olvera, County of Los Angeles Board of Supervisors, http://file.lacounty.gov/SDSInter/lac/112129_aolvera.pdf (last viewed Dec. 3, 2018) [hereinafter Supervisor Agustin Olvera].

⁴ A Judge of the First Instance was equivalent to a justice of the peace under Mexican and Spanish law. W.W. ROBINSON, *LAWYERS OF LOS ANGELES: A HISTORY OF THE LOS ANGELES BAR ASSOCIATION AND OF THE BAR OF LOS ANGELES COUNTY* 23 (1959) [hereinafter ROBINSON].

⁵ Cuyamaca Rancho, <http://factcards.califa.org/ran/cuyamaca.html>.

⁶ The California Constitution stated: “The County Courts shall have such jurisdiction, in cases arising in Justices Courts, and in special cases, as the Legislature may prescribe, but shall have no original civil jurisdiction, except in such special cases.” Criminal jurisdiction was more limited “as the Legislature shall prescribe.” CAL. CONST. art. VI, §8.

⁷ There were three levels in the courts at that time. At the lowest level were the alcaldes, or mayor’s courts, headed by justices of the peace, in the townships. These courts presided over petty crimes. At the middle level was the court of sessions. At the next level was the district court. Los Angeles was the First District, which initially encompassed several southern California counties from San Luis Obispo to San Diego. The district courts were renamed as the superior courts in the state Constitution of 1879. Paul R. Spitzzeri, *On a Case by Case Basis: Ethnicity and Los Angeles Courts 1850-1875*, 83 CAL. HIST. 26, 32 (2005).

⁸ TOM SITTON, *THE COURTHOUSE CROWD: LOS ANGELES COUNTY AND ITS GOVERNMENT, 1850-1950* 39 (2013) [hereinafter SITTON].

⁹ 2 JOHN STEVEN MCGROARTY, *HISTORY OF LOS ANGELES COUNTY* 12-13 (1923).

¹⁰ ROBINSON, *supra* note 4, at 38.

¹¹ John Currcy, *Treaty of Guadalupe Hidalgo and Private Land Claims*, in *HISTORY OF THE BENCH AND BAR OF CALIFORNIA* 57, 58 (Oscar T. Shuck ed., 1901).

¹² SITTON *supra* note 8, at 51.

¹³ FARAGHER, *supra* note 1, at 477-78.

¹⁴ *Id.*

¹⁵ Spanish Language Rights in California: Debates over the 1879 Constitution, <http://www.languagepolicy.net/archives/1879con.htm>.

¹⁶ 1 THEODORE H. HITTELL, *THE GENERAL LAWS OF THE STATE OF CALIFORNIA, FROM 1850 TO 1864, INCLUSIVE*, 221 (1870).

¹⁷ *Id.* at 73.

¹⁸ Supervisor Agustin Olvera, *supra* note 3.