

THE HISTORY OF LOS ANGELES

As Seen from the City Attorney's Office

BY LEON THOMAS DAVID

EDITOR'S NOTE

The publication of Leon Thomas David's oral history in this volume of *California Legal History* provides the opportunity to present his "History of Los Angeles as seen from the City Attorney's Office," which he completed in 1950. It is one of several works occasioned by his service as an assistant city attorney, a position he held from 1934 until his appointment to the bench in 1950, except for his period of active duty during World War II.

In addition to the legal, academic, and military careers discussed in his oral history, Judge David enjoyed a fourth public career as a pioneering legal historian. In this role, he gave special attention to the legal history of California. His service in the City Attorney's Office led to studies that combined the historical and substantive aspects of that office. For example, one of his earliest and best known works is a series of articles published in 1933–34 that discuss the development of municipal tort liability in California.¹ Many of his works in the field of legal history predate the creation

¹ Leon Thomas David, "Municipal Liability in Tort in California," published in five parts in *Southern California Law Review* 6 and 7 (1933–34); revised and expanded edition published as *Municipal Liability for Tortious Acts and Omissions with Particular Reference to the Laws of the State of California* (Los Angeles: Sterling Press, 1936). A procedural work arising from his city attorney service was *The Administration of Public Tort Liability*

in 1956 of the American Society for Legal History, of which he became an active member. At the time he first recorded his recollections in 1977, he was also the chair of the State Bar Committee on History of Law in California. His final published work is the article titled, "California Cities and the Constitution of 1879," which appeared in 1980.²

Judge David's history of the Los Angeles City Attorney's Office is today both a "history" and a documentary source on the viewpoints and attitudes of a prominent lawyer in mid-twentieth century Los Angeles. It was serialized in the *Los Angeles Bar Bulletin* from April to December, 1950.³ Chapter I, covering the Spanish-Mexican period, reappeared in Judge David's doctoral dissertation of 1957 (a three-volume work of 1470 pages on the role of lawyers in government from William the Conqueror to America of the 1950s).⁴

The complete ten-chapter history of the City Attorney's Office has been reedited for publication here, but without alteration of the content. Comments in [brackets] have been added by the editor. Citations of cases and sources have been checked and expanded. The spelling of names, particularly in Spanish, has been corrected wherever possible. The photographs that accompany the article have been newly obtained for this publication.

— SELMA MOIDEL SMITH

in Los Angeles, 1934–1938, coauthored with John F. Feldmeier, published by the Committee on Public Administration of the Social Science Research Council in 1939.

² Leon Thomas David, "California Cities and the Constitution of 1879: General Laws and Municipal Affairs," *Hastings Constitutional Law Quarterly* 7 (Spring 1980): 643.

³ A verbatim reprint, without indication of publisher, date, or copyright, was distributed by Judge David to selected law libraries in California. The copy in the UCLA Law Library bears a handwritten note indicating that it was received from Judge David on October 4, 1951.

⁴ Leon Thomas David, *The Role of the Lawyer in Public Administration*. Dissertation, University of Southern California, 1957; Chapter IX(M)4, "Spanish-Mexican City Government: Los Angeles," pp. 261–71.

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The fabric of history is an endless web of cause and effect, but one may choose some bright thread and follow it through the pattern, and note the cyclic recurrences of the pattern itself in the fabric.

The transition of our Spanish-Mexican city to an American metropolis, still in population and interests the second largest Mexican city in the Hemisphere, has involved cyclic recurrences of major problems: organization, housing, land, water, transportation, immigration and integration of the newcomer.

That Los Angeles is the third city of the United States testifies that the community has solved such problems, and in many a major battle, the solution has been due in large measure to the work of the city attorney and his staff.

The office itself dates at least to 1822. In the roster of the thirty-one men who held the office since 1850, and of their deputies and assistants, we

* The original author footnote reads: "Judge, Municipal Court, Los Angeles 1950. A.B., J.D., Stanford University; M.S. in Pub. Adm., U. of So. Calif.; Deputy City Attorney, Palo Alto, 1926-1931; Director, League of California Municipalities, 1931-1932; Faculty, U.S.C. Law School, 1931-1934; Lecturer, School of Government, 1934-1940; Assistant City Attorney, Los Angeles, since 1934; Colonel, F.A., U.S. Army, 1942-1946. Admitted California Bar, 1926."

recognize old friends whose legal careers are well known to the bench and bar. There are others whose tradition should not remain unknown, whose labors antedated the American occupation and conquest. Here we can but note briefly some data, which at a later time may be worthy of more detail, concerning a number of able and interesting men.

In this centennial year [of the State of California], we lawyers who consider these items may feel impelled to consider further, by reading from numerous works readily available. Some of these are indicated in the notes on the sources of the writer's information. Pictures of these leaders of the bar in times past and present are found in a number of works, and in the Los Angeles Public Library.

CHAPTER I

A CONTRACT FOR SETTLEMENT

In the development of California jurisprudence, and the growth of a large and learned bar in the State of California, men's quest for gold did not give rise to the major legal problems which taxed the abilities of lawyer and the patience of litigants for many a year. Land — land and water — these more than gold, were to instigate many a bitter battle in politics and at law.

Philip II of Spain, contemporary of Queen Elizabeth, was known as "the prudent."¹ Master of almost all of the New World, he established the *Leyes de los Reynos de las Indias* for the establishment and government of colonies. Therein it was provided that a pueblo or town might be established by a contract for settlement,² in which ten married men agreed to establish it with their families, within a time therein specified. Dwellings were to be provided for each family, a church established, and a prescribed list of livestock was to be maintained by each settler on the common lands allotted for the settlement. If the conditions had been met, within the time specified, the reward was the official establishment of the town or pueblo and a grant to the settlers in common of four square (Spanish) leagues of

¹ Though the loss of his Armada in 1588 was to start the decline of Spanish power, which culminated in Mexican independence in 1821, [this is not] pertinent to our story.

² *Recopilación de leyes de los Reynos de las Indias, Ordenanzas del Rei Don Felipe II*, Libro IV, título V, leyes VI, X; "Ayuntamiento," in Joaquín Escriche, *Diccionario Razonado de Legislación y Jurisprudencia* (rev. ed., Paris: Librería de Rosa, Bouret y Cia., 1854), 336–38.

land, laid out in a square if topography permitted without infringing upon any other pueblo or Indian town. The pueblo gained political status.

It would be under the eye of the prefect, representing the crown, but with its *alcalde* or mayor, and its *regidores* or councilmen formed into the *ayuntamiento* or council, it would have considerable self-government, and the council would assign and administer the pueblo lands. The waters, minerals and forests likewise were to be so administered.

The *alcalde*, as mayor, exercised the general functions of a justice of the peace, a feature retained in later municipal law in the American regime taking over Spanish-Mexican cities (see 1 Cal. Reports, original ed., appendix).

In October, 1781, Lord Cornwallis surrendered, and English dominion of the Atlantic colonies ceased. Only a month before, on September 4, 1781, twelve unpromising colonists began building rush huts for themselves and families at an Indian village called Yang-Na, to hold the Pacific Coast for Spain. They had come from Sonora and Sinaloa to fulfill their contract of settlement under Philip II's *ordenanzas*, which settlement was blessed as the Pueblo de Nuestra Señora la Reina de los Ángeles de Porciúncula, in ceremonies conducted by the San Gabriel Mission. "Porciúncula," the name given to the present Los Angeles River by Portola, was derived from the Franciscan festival day on which Portola, in 1769, had paused at the spot.

The launching of this settlement, under the laws of the Indies, had involved some legal difficulty. The requirements of the *ordenanzas* of Philip II were not well adapted to this new land. For instance, Law VI required settlers, among other things, to have blooded Castilian livestock, obviously difficult on such a faraway frontier.

A decree was drawn up by Don Filipe de Neve, governor, close to the problem, for the government of Alta California, of which the 14th Title treated of settlements and pueblos on a more realistic basis.³ Promulgated at Monterey, this decree was referred to the King of Spain, who approved the decree on October 24, 1781. De Neve already had given instructions for the establishment of the new settlement, which was well under way before the royal approval was given.

³ A translation appears in John W. Dwinelle, *The Colonial History of the City of San Francisco: being a synthetic argument in the District Court of the United States for the Northern District of California, for four square leagues of land claimed by that city* (San Francisco: Towne & Bacon, 1863), Addenda IV.