

Auburn, the County Seat of Sutter County.

Recently two of the authors of the book *Early Auburn* were queried about the accuracy of this statement which appears in the introduction to their book.

“Another factor that influenced the growth of Auburn was its designation as the Sutter County seat over Ophir, Nicolaus and Miner’s Hotel in 1850. By an election, thought to be influenced by ballot stuffing, Auburn became the county seat. A contemporary newspaper man R. J. Steele wrote: The favorable location of Auburn, its preponderance of population and the inexhaustible powers of voting possessed by its citizens and partisans decided the contest in its favor by a majority considerably exceeding the entire population.”

Was Auburn, in fact, ever the county seat of Sutter County?

It might seem a minor point except for the fact that most historians are in agreement with R. J. Steele and other early writers that Auburn’s selection as county seat of Sutter County was a significant factor in preventing Auburn from fading away like so many other gold rush towns.

The authors like to think they’re judicious with the statements they make. So what are the sources supporting the author’s statement? The first reference is from the *Placer County Directory of 1861*, R. J. Steel, pg 7.

“In the first division of the state into counties, Auburn came within the boundaries of Sutter, the county seat being at Nicolaus ... The mass of the population being in the nearer vicinity of Auburn upon the North Fork of the American, and among the various dry diggings adjacent, the removal of the county seat was demanded and order obtained for an election submitting the question to the people. Four ambitious precincts entered the lists for the honor-Auburn, Nicolaus, Ophir and Miner’s Hotel (Franklin House).”

The second source is more lengthy and appears in the *Thompson and West History of Placer County*, Myron Angel, 1882, pgs. 92-94.

In the organization of the counties: “The Legislature passed an act, approved February 18, 1850, segregating the state into twenty-seven counties, ... Sutter County included within its limits that portion of territory, subsequently organized into Placer County, ... and a place called Oro, on Bear River, ... was the county seat.”

“The Legislature named the first Monday in April, 1850, for the election of county officials... The first meeting of the Court of Sessions held June 10, 1850, at Oro, the county seat ... Upon it appearing to the Court that there were not proper and necessary accommodations and buildings at Oro, the county seat, for the offices of the county officers who are by law required to keep their offices open, it is ordered that, for the future, ... the courts and county offices shall be held and kept open at Nicolaus ...”

“The mass of the population of the county was in the vicinity of Auburn, ... these demanded the removal of the county seat, ... The result (of the election) was the selection of Auburn as the county seat of Sutter County ...”

These then are the standard references for this early period in Auburn’s history. How are we to evaluate the veracity of these statements? Both R. J. Steel or Myron Angel offer almost nothing in way of supporting evidence. Angel provides just one primary source, a portion of Judge Philip

Keyser's Centennial address at Hock Farm in 1876 regarding the celebration of the removal of the County seat to Auburn. (*History of Placer County*, pg 94. *Marysville Daily Appeal*, 11 July 1876, complete address)

"Oro, however, enjoyed the honor - if it enjoyed it at all - but a short time. There was not a house nor a building in the town for any purpose, much less for holding court, the transaction of county business and the preservation the public records. ... The court resumed its session at Nicolaus (June 11, 1850), which place became practically the county-seat, and remained so until the latter was, by a vote of the people a few months afterwards, established at Auburn, the present county-seat of Placer county."

Aside from this one primary source, a thorough review of sources including both the California Digital Newspaper Collection and Newspapers.com revealed nothing in support of the comments of these three authors. This wasn't surprising considering Angel's acknowledgement in Thompson and West that there was no record for the first election in Sutter County, "minute-books, dockets, assessment rolls, etc " were used to determine names of a number of the newly elected officials. Their sources remain an open question. However, several related articles did turn up. Such as the following:

Contrary to the comments of R. J. Steel, the first election held by the newly created counties on the first Monday of April 1850 apparently generated little interest in Placer County.

"At the 'Half-way House', where the polls were also open, so few votes were deposited that it is doubtful whether there are enough to give the election there legal effect-thirty votes being the number required by law." (3 April 1850 *Sacramento Transcript*)

If the Sutter County seat did not move, other than from Oro to Nicolaus, then we might expect to find articles to that effect - and we did.

On 2 June 1850 Sheriff Echols was shot by Samuel Stewart in Auburn. Stewart was arrested and removed to Nicolaus for lock up in de facto recognition of that location as the County seat (seat of justice). (13 August 1850 *Sacramento Transcript*) Articles pointed to other county offices located in Nicolaus.

On July 2 1850 Deputy Assessor, Sam B. Smith, sent out a notice from Nicolaus to property owners in Oro. (4 July 1850, *Sacramento Transcript*)

Months later, on 10 Sept 1850 H. S. Mesick, Treasurer of Sutter County, sent out a Collectors Notice from the Treasurer's Office, Nicolaus. These notices appear up to early November. (*Sacramento Transcript*, 9 November 1850) By law "Each county Treasurer shall keep his office at the seat of justice for his county ..." (*Marysville Daily Herald*, 30 Aug 1850)

Appearing in the 7 November 1850 copy of the *Sacramento Transcript* was a notice for the District Court of the Eighth Judicial District, Judge Wm. R. Turner, Nicolaus, Sutter County Oct 11, 1850.

A Sutter County Sheriff's Deed filed 16 January 1851 was the result of an attachment and judgement out of "Justice Court in the Town of Nicolaus" ... 16 Dec 1850 and sold at auction in front of the "court house in Nicolaus" on 14 January 1851. (Sutter County Deed Book A, pg. 298)

Similar Sheriff's deeds were filed on 15 and 16 January 1851 (Book A, pg. 196 and pg 297) resulting from the "public sale in front the Court House in Nicolaus."

In the short period before Placer County was created by the State legislature, the only notices of transactions for Sutter County business point to Nicolaus, not Auburn. Until the following:

“Administrators Notice.

All the persons having claims against the estate of the late firm of Post & Ripley, of Auburn, are hereby notified that the same must be presented to me within ten months from the date hereof, at my office in Auburn. And all persons indebted to said estate are notified that immediate settlement must be made, or payment will be enforced by law. SAM'L B SMITH, Public Administrator of Sutter Co. (8 Feb 1851, *Sacramento Transcript*)”

Thus, it at first appeared that the Sutter County seat did in fact move to Auburn between the last weeks of January and the first weeks of February. During the same period it was reported that a bill had been introduced into the Assembly in which three new counties were created. Auburn would be the county seat of Placer and Vernon for Sutter County. (2 February 1851, *Daily Alta California*) We then had to revise our opinion at the receipt of the following.

We received from the California State Archives a copy of a petition submitted to the state legislature, dated December 26, 1850, requesting the creation of a new county and containing conclusive evidence of the county seat move to Auburn. Sometime before December 26th.

Furthermore, a Sutter County Sheriff's Deed filed 13 March 1851 was the result of an attachment and judgement out of “*6th Judicial District Court in and for Sacramento County*” ... 10 January 1850 and exposed to public sale in front of the “*court-house in the town of Auburn*” on 13 March 1851. (Sutter County Deed Book C, pg. 54)

One month later “... on April 25, 1851, an Act was passed dividing the State into counties ... by this Act the counties of Placer, Nevada and Klamath were created.... The county seat was fixed by the same Act at Auburn... an election to be held in Placer ... on the 26th of May ... for county and township officers.” (Thompson and West, pg 95)

All the afore mentioned primary sources establish the fact that Auburn was indeed the county seat for Sutter County, if only for a short period of time.

Placer county elections were held on the 26th of May for county officials. (9 June 1851, *Daily Alta California*) However, it would be some months before some Sutter offices were moved to Vernon. Meantime Nicolaus was back to being the Sutter County seat.

On 23 July 1851 the Public Administrator for Sutter County, Sam B. Smith, posted a public notice from his office in Nicolaus. (23 July 1851 *Sacramento Daily Union*)

“All persons having claims against the estate of Raymond Shinn, deceased, late of Nicolaus, Sutter County, will present the same to me at my office at Nicolaus, within ten months from the date hereof. Sam. B. Smith, Public Administrator Sutter Co. Nicolaus, July 1st 1851.”(Sacramento Daily Union)

Many years later, John Boggs, Auburn 49er, provided his own take on the County seat story in his reminisce published in the *Placer Herald*. (18 January 1908)

“After Placer County was cut off from Sutter by the Legislature, an election was held for the County seat, the towns competing for the honor being Auburn, Ophir, Yankee Store on Secret Ravine, and Franklin House, and a few scattering votes for other places. The Wild Cat Ranch got three or four votes. The election took place in Gwynn's store. There was a hole cut out of the side of the store and a man had to reach up with his ticket, the

Election Board being inside and they could not see when he voted, so he kept putting in votes. Auburn carried for the County Seat by a larger majority than there were votes in the county, according to the pool-tax returns.”

In this account we read of elements similar to those which appear in accounts of R. J. Steel and Myron Angel, but here they are connected to the election of May 1851 and not some earlier special election. However, Boggs continues, “*Court was held at that time in Post & Ripley’s round tent. ...*” implying both an earlier date and thus a Sutter County court and county seat in Auburn. He was right, but just a little confused in the telling. And what happened to the first court house in Auburn?

Willard Post and George W. Ripley, both 40 years of age, both traders and both from Texas appear in the Auburn area of Sutter County in the 1850 Census. Sutter County acquired their property prior to February 8, 1851 ... sold it in July ... and their names are seen no more.

Placer County Deed Bk A, page 11.

“Know all men by these presents that I Saml B. Smith Public Administrator of Sutter County for and in consideration of fourteen hundred and fifty dollars to me in hand paid by Wm. Gwynn of Auburn, County of Placer and State of California ... have this day bargain, sold and conveyed until the said Wm Gwynn ... the following property ... a certain house and lot formerly belonging to and occupied by the late firm of Post and Ripley ... together with out house ... to him the said Wm Gwynn ...
Witness my hand and seal this 30th day of July A D 1851, Saml B. Smith Public Administrator of Sutter County.

Post & Ripley’s round tent. Auburn’s first court house when it was the county seat of Sutter County.

