

Peninsula Diary Mayo Hayes O'Donnell

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### **A Trial By Jury**

John McHenry Hollingsworth, one of the singers of California State Constitution in 1849, has had probably as little written about him as any of the group of men who attended that first Constitutional Convention held in Colton Hall in Monterey. Yet he had one of the most distinguished backgrounds.

John McHenry Hollingsworth was born in Baltimore in 1823, the son of Horatio Hollingsworth and Emily Caroline Rodgely. His mother was the granddaughter of Samuel Chase, one of the signers of the Declarations of Independence, so it was most appropriate that his great-grandson should help frame the Constitution of his adopted state.

On August 31, 1846, he was mustered into the service at Fort Columbus to serve for the war as a brevet lieutenant in Captain Shannon's company of the Seventh Regiment (Stevenson's New York Volunteers). On May 2, 1847, he was transferred to Company G, and mustered out with that company on September 18, 1848, at Los Angeles.

After leaving the service, Lieutenant Hollingsworth remained in California in and around the southern mines, and in 1849 he was selected as a member of the Constitutional Convention from the District of San Joaquin. He took an active part in the deliberations of the convention, and after its adjournment, Governor Riley selected him as a bearer to the government at Washington of the new California Constitution.

Although he was one of the first in the Gold Region, he accumulated no wealth, and after this return he was appointed collector for the Chesapeake and Ohio Canal. Sometime during this period, he moved to Georgetown, where he became one of the officers of the Potomac Light Infantry, a crack militia company. On the start of the Civil War, this company became a part of the First Battalion, District of Columbia Volunteers, with Hollingsworth as major. He was mustered out on July 22, 1861.

Ten years later Hollingsworth was appointed superintendent of Mr. Vernon, the home of George Washington on the banks of the Potomac. He retired because of ill health in 1885 and passed away April 15, 1889, leaving his wife, Virginia Nichols Hollingsworth.

In his journal of his voyage from New York to San Francisco and then to Monterey, Lieutenant Hollingsworth writes: "Arrived at Monterey, April 7, after a sail of 24 hours and went into camp in the outskirts of the town called Camp Kearney."

Later that same day he recorded: "Camp Kearney-Monterey Wednesday—We were landed on the wharf by boats of the Columbus and other American armed vessels and after marching through the town encamped at this place—a beautiful spot of ground in front of the church. We arrived late on the ground and great confusion arose in consequence of not being able to get all the tents up.

"April 15—I went to a fandango last night and enjoyed myself very much looking on as I did not dance—I have not been introduced to a single lady since I got here—This dance was nothing in comparison to the great Navy ball—"

"April 17,—We went out to Carmel Valley on a gunning expedition with Bonnycastle—saw a number a quail, got only six out of a large number of them—We rode some twenty mile up the valley—It is a beautiful country for grazeing some romantick —Hills covered with wild oats, headed already and all kinds of wild flowers—We visited Captn Tompkins' camp. It had a guard of only about fifteen men to take care of about a hundred horses, the finest I have seen in the country.

Yesterday marked the 104th anniversary of the empaneling of the first jury every summoned in California. Walter Colton, the alcalde, called the jury. The plaintiff and the defendant were among the principal citizens of the country. The case was one involving property on the one side, and the integrity of character on the other. Its merits had been pretty widely discussed and had called forth an unusual interest. One-third of the jury were Mexicans, one-third Californians, and the other third Americans. Walter Colton writes in his diary "This mixture may have the better answered the ends of justice, but I was apprehensive at one time it would embarrass the proceedings: for the plaintiff spoke in English, the defendant in French, the jury, save the Americans, Spanish and the witnesses all the languages known to California. But through the silent attention which prevailed, the tact of Mr. Hartnell, who acted as interpreter, and the absence of young lawyers, we got along very well"

“The examination of the witnesses lasted five or six hours; I then gave the case to the jury, stating the questions of fact upon which they were to render their verdict. They retired for an hour, and then returned. When the foreman handed in their verdict, which was clear and explicit, though the case itself was rather complicated. To this verdict, both parties bowed without a word of dissent. The inhabitants who witnessed the trial, said it was what they liked—that there could be no bribery in it—that the opinion of twelve honest men should set the case forever at rest. And so it did, though neither party completely triumphed in the issue. One recovered his property, which had been slandered by design. If there is anything on earth besides religion for which I would die, it is the right of trial by jury.”