

Peninsula Diary Mayo Hayes O'Donnell

July 23, 1956

### Statehood

In December 1849 when the First California Legislature convened in San Jose, the place for the historic event having been chosen at the First Constitutional Convention held in Monterey a month previously, the winter had been an unusual one, with rainfall upward of 26 inches for the season. The rains began on the night of October 28th, and by the 15th of December, the roads were so muddy that not enough legislators were able to reach San Jose by the first day. The following Monday however, Dec. 17th, a quorum had arrived and the Legislature officially convened.

California functioned as a state almost a whole year before it was a state. Not until Sept. 9, 1850, were we admitted into the Union. The first legislature elected a governor, a legislature and state officials; they met, passed laws and adjourned. On Dec. 10, 1949 San Jose celebrated the centennial anniversary of this event in California history. Herbert C. Jones, former senator from Santa Clara County, told the story of that first constitutional convention at the centennial celebration in 1949, and repeated that story for the Conference of California Historical Societies held in San Jose in June of the same year.

Senator Jones said, as he opened his address: "Too often and too lightly this first legislature itself disparaged its effort and its personnel by referring to it as "The Legislature of a Thousand Drinks." One of the members of this first Senate, Thomas Jefferson Green, is responsible for this title. History records that he was fond of dinking and that after each session he invited his colleagues to have a drink, a thousand drinks."

It is interesting to note Senator Jones' comment on the rapidly changing personnel; the fact that there was no established or recognized universal law for California. In some sections the Pike County Code of Missouri was followed; in other sections the New York Code. In the southern part of the state the Mexican law was observed, and in the northern part the English common law was used, with the exception of the vicinity of Monterey.

In some parts of the state the miner's code prevailed as the law; and in the cattle country the law of the plains governed. It was part military government, part civil

government and part no government at all. Some of the courts were Mexican, others were military seeking to enforce the law. In some communities the alcade assumed wide authority and in other sections squatter sovereignty or vigilante law prevailed.

Judge E.W. McKinstry, a member of the first legislature, describes San Jose of 1849 as follows:

"The first State House of California, a two story adobe building with a wooden plaza running along it front, stood on the side of the Plaza. On one end, to the north was the church.

"When the legislature met in 1849, the Mexican town extended for a little space beyond the church. Nearly all of the houses were made of adobe, with tiled roofs, and all but one story in elevation. There were tiendas offering for sale their variety of dry goods and groceries consumed by the natives; and 'fondas' which the ambitious American 'hotels' had not yet driven out the business. At a prominent corner there was a 'panaderia,' exhibiting tempting loaves of bread; and a very important industry to people who spent much of their time on horseback was that of the 'sillero', or saddler."

During the convention here in Monterey a committee of San Jose Citizens headed by Charles White and James F. Reed had persuaded the convention to name San Jose as the State capital. This committee had promised a suitable building by the 13th of December. This was indeed a rash promise, when it is considered that San Jose at that time had no building adequate for the purpose.

However, Herbert Jones stated during his talk, there stood on the east side of the market square a large adobe structure erected in 1849 by Sainsevain and Rochon intended by them for a hotel. Since this edifice was the most suitable one the town could use for a state house, the town council proposed to rent it for the legislature. However, the rental price asked namely \$4,000 per month, was so exorbitant that it was deemed best to purchase the building outright.

Here the owners declared themselves unwilling to take the towns authorities as security. Happily, some of the leading citizens of San Jose, rather than see the "pristine glories attendant on the presence of the legislature in San Jose glide from them" with public-spirited generosity, came forward to save the honor of the town, and 19 of them executed a note for the price

asked, namely \$34,000, with interest at the rate of 8 percent per month!