

Peninsula Diary Mayo Hayes O'Donnell

August 31, 1956

Colton's Trial

On Monday, Aug. 31, 1846, one hundred and ten years ago today, Walter Colton, the builder of Colton Hall, wrote in his diary as follows: "I am forced at last into a systematic arrangement of my time; without it I could never get through my duties. I rise with the sun, read till eight o'clock, and then breakfast; at nine, enter on my duties as alcalde, which confine me till three, P. M., then dine; and at four take my gun and plunge into the woods for exercise and partridges; return at sunset, take tea, and in the evening write up in my journal, and an editorial for the Californian.

"When the sabbath comes, I preach: my sermons are composed in the woods, in the courtroom, or in bed, just where I can snatch a half-hour. I often plan them when some plaintiff is spinning a long yarn about things and matters in general, or some defendant is losing himself in a labyrinth of apologetic circumstances. By this forbearance both are greatly relieved; one disburdens himself of his grievances, the other lightens his guilt, and, in the meantime, my sermon develops itself into a more tangible arrangement. My text might often be—'And he fell among thieves!'"

A few days later, on Friday, Sept. 4, Colton empaneled the first jury ever summoned in California. The plaintiff and defendant were among the principal citizens of the county. The case was 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 according to Colton's report of the affair.

One third of the jury were Mexicans, one-third Californians, and the other third Americans. This mixture may have better answered the ends of justice, but Colton was apprehensive at the 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 silence and attention which prevailed, the tact of Mr. Hartnell, who acted as interpreter, and the absence of young lawyers, we got along very well," the Rev. Mr. Colton reported in his "Three Years In California."

The examination of the witnesses lasted five or six hours: then Waiter Colton 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, according to Colton's report in his diary. That there had been no bribery in it, that the opinion of 12 honest men should set the case forever at rest they thought. And so it did, though neither party completely triumphed in the issue. One recovered his property, which had been taken from him by mistake, the other his character, 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". Thus ended Colton's notation in his diary for Sept. 4, 1846.