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Regional Cultural History Project

WILLIAM E. COLBY

Reminiscences:
tape recorded interviews
for the Bancroft Library

Oct-Nov. 1953

William E. Colby

REMINISCENCES

An Interview Conducted By

Corinne L. Gilb

Berkeley
1954

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INTRODUCTION

On three separate afternoons in the autumn of 1953, I carried a tape-recorder past the treelined streets and fraternity houses which skirt the south side of the University of California campus, to William E. Colby's pleasant old brown-shingled home. The slim and pretty second Mrs. Colby ushered me into their quiet woodpanelled highceilinged living room, and we listened -- Mrs. Colby, the tape-recorder, and I -- as one of California's greatest mining lawyers and conservationists told us the story of his life.

Mr. Colby uses a cane now, at 78, but he still goes duckhunting and his mind still dredges as thoroughly and powerfully as ever. During the weeks we were recording and editing, he was writing what will some day be considered one of the last great briefs on extralateral mining rights, journeying to Yosemite to serve on its advisory board, planting his garden down at the Big Sur, visiting and entertaining his many friends, and writing an article on his father's life. His remarkable memory and the discipline of his mind are evident in the following manuscript.

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Bancroft Library
16 March, 1954

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Mr. Colby, won't you go ahead and tell us the story of your life in your own words -- beginning at your birth, if you care to start that way.

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of the state, for only a few months, I believe. It was the headquarters for the Army; both the arsenal and the barracks, being the most important Army and military concentration on the coast, were situated there. It also was the leading educational city in the state for some time, having several young ladies' seminaries and colleges and also St. Augustine's college for young men.

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My father was Gilbert Winslow Colby and my mother, Caroline Amelia Smith. My father was born in Bradford, New Hampshire on May 5, 1825. His father was killed in a cave-in of a well in which he was working, and his mother and sister were also very seriously injured and afterwards died from an accident in a carriage, leaving my father an orphan about the age of 12. He apparently had a good early education and taught school for several years. He attended the University of Norwich, in Vermont, taking a course in civil engineering. He was in the class of 1841. He left Boston on the sailing bark, Drummond, February 1, 1849, coming around the Horn and arriving in San Francisco September 1, 1849. He was a member of the Suffolk mining company, of whom there were 47 members. Upon arrival in San Francisco he took a sailing

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schooner for Sacramento with three of his companions on the trip around the Horn and formed a partnership, taking merchandise with him which had been brought on the sailing vessel around the Horn. He opened a store with two of his partners in what was called the "Big Tent", on J street, in Sacramento, which was the largest available place that business could be carried on. Several merchants had stocks of goods in that tent. It was the headquarters of the principal stage company leading out from Sacramento, and also the officials of Sacramento city were located there. He did not remain there long, but transported the merchandise, consisting principally of tools and goods for miners, on a mule train to Mormon Island at the junction of two branches of the American river and then on up to Redbank, where he was located for some time. He engaged in mining and also in merchandising. Every week he drove his own team of oxen to Sacramento to secure additional supplies for his store at Redbank. He remained at Redbank for several months, but evidently came to the conclusion that mining was not the kind of business he wanted to engage in, so he returned to Sacramento and purchased a ranch near there. He took as a partner a Mr. Pettit, who also knew something about raising grain, and together they operated

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this ranch near Sacramento and successfully raised in the very early '50's, '50 or '51, the first crops of merchantable grain that were raised in the Sacramento valley. He later sold this ranch and purchased another larger one on the Sacramento river near and north of the famous Bidwell Chico ranch. General Bidwell and his wife were close neighbors, and they saw a good deal of each other. I can remember meeting General Bidwell up in Chico in those very early days. My father was made a city and county surveyer for Sacramento and held that position for several years and later on became what was called a locating agent for state school lands. He held that position from 1860 to 1869. He was also elected a member of the Agricultural Board, which was an official position in those early days.

Going back to his ancestry in New Hampshire, he was the great-grandson of Neremiah Colby, Sr. of Hopkinton, New Hampshire, a patriot who served on the Committee of Safety and who signed the Association Test, April 22, 1776 to support the American colonies.

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nected. He surveyed public lands for the United States government in a good many of the Northern counties. He also owned a lumber mill in the Sierra Nevada under the firm name of Colby and Allen. His cattle, horses, wheat, and barley won first prizes at state fairs. He was an early member of the State Grange and stood very high in Masonic circles, and also of the Independent Order of Odd Fellows. His picture is among the pioneers in the Sutter's Fort State Park at Sacramento. He was admitted to the bar in 1852, having studied law on his way around the Cape, having taken some law books with him on the voyage for that purpose. He practiced locally in Sacramento and also in the Interior Department in connection with public lands. He had large farming and live stock interests in Colusa, Tehema, Butte, Yuba, Solano, and Contra Costa Counties. In 1862 he opened a merchandise store at Colby's Landing near Nord, which is the railroad station a little north of Chico. The firm was Colby and Pond. His partner was Samuel Pond, who afterwards became mayor of San Francisco. He was a director of several banking and business corporations and at the time of his death in 1881 was President of the Grangers' Bank of San Francisco, a bank which was connected with the State Grange. He was also postmaster at Nord

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for many years. He owned a ferry -- which crossed the Sacramento river at Colby's Landing. It was operated by a man I can recall, by the name of Ringland. It was used for teams and foot-passengers crossing the river at that point. Colby's Landing was also a point where the Sacramento river steamers stopped on their way up and down the river. He was elected in 1852, when he was only 27 years old, as a State Assemblyman and served for the year 1853. He was later, in 1854, elected to the State Senate and served in 1855 and '56 and took part in a great deal of the important legislation that was passed in those early days. On March 30, 1878 he made a principal address before the State Grange, and it is interesting to note that at that early date he warned people of the threatened invasion of "taxgatherers and communism". Later on in this speech he also referred to Kearneyism, which at that time was attracting so much public attention because of the deplorable methods of Kearney and his hoodlum associates in San Francisco. He advocated dispelling all apprehensions that alien or communistic element would control our conventions or administer our government in its interest. He was a great advocate of women's suffrage because of

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his wife's interest in that cause.

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On December 8, 1866 he married Caroline Amelia Smith, in San Francisco, and following that time their main home was at Colby's Landing on the Sacramento River. She was my mother, born in Garland, Maine, May 2, 1837. She graduated from the Maine Female Seminary at Gorham, Maine on May 3, 1858. She came to California via the Isthmus of Panama in 1859 in company with Mrs. A.G. Stiles, who became very prominent in California and for whom Stiles Hall situated near the University of California was named. She taught school in California in various places: San Francisco, Marysville, Centerville, and particularly in the Young Ladies' Seminary in Benicia. This Seminary was started in 1852 by a group of pioneers in Benicia, California. Later on Dr. Cyrus Mills and his wife, Susan Mills, took charge. My mother taught under their administration and continued after the Mills had removed to Oakland, where they established Mills College. She taught English and "Moral and Mental Philosophy" in Benicia, and also had as one of her pupils Louise Strenzel, who later became the wife of John Muir and who at that time lived across the Bay back of Martinez in Alhambra

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My mother and father had five children. The first one, by the name of Bertie, died within a year of his birth; and then followed a daughter, my oldest sister, Julia, next my brother, Charles

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then followed my birth, and after that my younger sister, Josephine. We were all born about three years apart.

My mother died October 24, 1879 and my father on October 20, 1881, so I became an orphan when I was six years old. I was then, still living in the same home in Benicia, in which I was born, which was one of the earliest permanent residences there and I think the first brick house that was built in Benicia. After my parents' had died, I was taken care of by my aunts. My Aunt Henrietta Louisa Smith was made the legal guardian of all of us four children, and she was assisted in our care by a great aunt, who was quite a remarkable person, Louisa Mitchell Daugherty. My Aunt Daugherty had been a schoolteacher in the East, had married a physician who had died. She had preached in several pulpits in the East, which was rather extraordinary for a woman in those days. She was born in 1799, and she used to state with pride that she was born when George Washington was still alive. She had a very active mind and wrote for the newspapers, had a column at one time on the subject of Prohibition, which was one of her specialties. She took charge of my education and taught me regularly until I entered the public school in

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Benicia when I was 12 or 13 years old. Her teaching was so thorough that I entered a class in the public school where the great majority of the pupils were a year older than I. I continued with my public school education in Benicia and went on into the high school there, spending the first two years in the high school. Then I came to Berkeley with my aunt and younger sister. My older sister had graduated from the State Normal School in San Jose and was a teacher at that time. My brother had gone into business.

When I came to Berkeley, I entered Bowens Academy, which was a school preparatory for the University, at the corner of University Avenue and Grove Street. There I took one year finishing my preparation for the University. The Principal of the school, Thomas Stewart Bowens, was a Latin scholar, having graduated from Dublin College in Ireland. He found that I had an interest in Latin, having just a smattering of it acquired in Benicia under the tutelage of the Episcopalian minister, who had a small class. But under Professor Bowens' leadership, I prepared in one year and took seven entrance examinations at the University in Latin, reading Latin at sight and translating English into Latin at sight. I got first sections in all

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In the University I tried to take courses that would equip me for my profession, which at that time I had decided would be that of a lawyer. I took courses in Constitutional History and Jurisprudence, from Professor Jones, William Carey Jones, who founded the School of Jurisprudence, which was later on called the Boalt Hall Law School. I also was greatly interested in science, and I became acquainted with Dr. Joseph LeConte, the elder, who was the eminent naturalist, scientist, and geologist. I took as many of his courses as there were available. This was one of the most stimulating and interesting periods of my education, because I found Dr. LeConte to be a master of the subjects that he taught and also had a personality which inspired all his students to revere him and appreciate the work that he gave. I can remember that I got first sections in both Geology and Biology, which were the two main courses that he gave, but I also took some additional lecture courses for which no credit was given.

Gilb: Did you have a laboratory method of learning geology in those days?

Colby: No.

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Colby: Yes. I remember that I took a special course which Professor Jones gave in Constitutional History. It involved the reading of all the Madison notes and diaries taken while the Constitution was being framed. It was a tremendously interesting course. There was only one other student in the course beside myself, and Professor Jones left us to our own devices. I met with Professor Jones only once or twice during the period when his course was given but handed in a volume of notes which I had taken from the Madison reports of the debates. I found this very helpful in my understanding of the Constitution and Constitutional decisions later on.

Gilb: How large were your classes in science?

Colby: The classes in science were crowded, as many as could get into the South Hall lecture hall. Dr. LeConte's courses were always very popular, and he had to place limitations on those who took the courses. I can always remember the course in Geology especially because, though I was a freshman at the time, two sophomores who took the course came in and sat down along side of me. One of them was John Howell, who afterwards ran the

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Antiquarian bookstore in San Francisco. The other one was -- became very eminent later on -- Cottrell, his name was. He invented the process of taking the noxious fumes out of smelter smoke by electricity, and instead of taking the proceeds from this patent of his, he created a foundation and put the thousands upon thousands of dollars which came in as a result of the use of this patent for the benefit of students and for the advancement of science. But these two students came into Dr. LeConte's lecture directly from a laboratory course in explosives, and of all the ill-smelling odors on their clothes that they used to bring into that lecture room every time that they came in, I shall never forget!

I only continued in the University in the class of '97 for two years, because our finances were low and I had to take a position as teacher at Bowens Academy, which prepared students for the University. I taught advanced arithmetic, algebra, geometry, trigonometry, physics, chemistry, biology, botany, and bookkeeping during the middle of the day. I left my home in Berkeley taking the Southern Pacific train for San Francisco at seven o'clock in the morning, when I attended an 8 A.M. lecture at Hastings - Montgomery St. near Jackson - returning to Berkeley a little after ten, when I

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I graduated with the class of 1898, and I had an opportunity to take a vacation, which I needed at that time because I had been working pretty hard attending Hastings and also teaching at the same time. I represented the Sierra Club in Yosemite Valley, opened headquarters for them, the first headquarters that they ever had in the Valley, in the summer of 1898, spent three months up there. When I returned from that stay in the Valley, I had

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Gilb: I wonder if I could interrupt to ask you a few questions about Hastings and your education there. You didn't all have to be from college, did you; you could have gone without a college education?

Colby: All that was required was a high school education.

Gilb: Did you find that the ones without college were especially handicapped?

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of the University or had attended the University, though there were a few. And now that you call it to my attention, the ones who did not have a college education, just as I recall it rather superficially, did not turn out to be as prominent lawyers as the others.

Gilb: Were many of these men working also while they were attending school?

Colby: A good many of them were in offices, law offices in San Francisco, but without being paid for it in the majority of cases. They simply were allowed to study in the offices and use the books there in return for some service that they might perform.

Gilb: Was it valuable to them, that experience?

Colby: That experience was undoubtedly valuable to them, and I felt somewhat handicapped when I started practicing law, not having had the advantage of being in court very often. Once in a while, while we were attending college, we heard of some special case that was in progress, and we tried to get time off to attend. I can remember one case in particular when General Barnes, who was attorney for the Southern Pacific Railroad in a damage suit defending against a suit brought by someone who was represented by Delmas, who was the great orator and lawyer, originally from San Jose. It was really a remarkable exhibition of forensic

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ability, the contest between these two great lawyers, both of them renowned for their oratory. However, it was the character of oratory that you hear very little of in courts nowadays.

Gilb: Did you do Moot Court work there at Hastings?

Colby: Yes. It was rather limited. Mr. Bosley had started this type of work. We organized into little units of about four or five as I remember and would meet at least once a month, if not oftener, and conduct a quiz covering the work of the previous month and also arguing some moot questions.

Gilb: But you didn't have a --

Colby: We didn't have a regular moot court as they have nowadays.

Gilb: Did you use the case method in your classrooms?

Colby: Yes, the case method had just about started at that time.

Gilb: How did you students react to it?

Colby: The students, I think, received it all right because they didn't know anything else. It started in the first year, and I think in practically all of our courses except jurisprudence and corporations the case system was followed.

Gilb: Did you have adequate books in the library to take care of that?

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Gilb: What is your view of the casebook method? Do you think it is the more valuable?

Colby: I think that by combining it with the textbooks you get the best results. Take either one alone and it is deficient. A combination of the two will bring about the best results.

Gilb: Did you do legal aid work while you were there at school?

Colby: No. I didn't do any while I was attending school, but soon after I started to practice I did.

Gilb: I have one more question and that is, were there women in the classes and what was the reaction of the men to them?

Colby: There were three women in my class. One of them was Rachel Vrooman, daughter of Senator Henry Vrooman, who was one of the noted State Senators, and an outstanding lawyer, who was the author of the Vrooman Road Act. He drafted the charter for Stanford University, and was personal attorney for Stanford, drawing up the trust which created Stanford University, and supervised getting the legislation through the State Legislature that aided the University. Miss Vrooman became my first wife. We were married in 1902.

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And another woman classmate was Elinor Pratt, who was daughter of the United States Surveyor General for California. She held a rather important position of chief clerk in the United States Surveyor General's office at the time she was attending Hastings, and she was a young woman of exceptional ability so that many of the persons who went to the Surveyor General's office sought her advice on law questions. And she, being a public official, was unable to help them out by appearing before the land department or the courts, so that shortly after graduation she asked me if I would take on some of this work that she was unable to handle, and she referred many clients to me, especially those who were interested in mining problems. That is the reason I moved to the Mills Building, to open an office in conjunction with an oil company that the Surveyor General was interested in. Nowadays a public official would have difficulty in conducting the private business on the side that they did in those days. It was nothing unusual at that time.

The third young woman in the class was Jessie Watson of Oakland, and she after graduation started practicing. She had a great acquaintance with women particularly, who were widows, many of them

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Now in my own personal life, I have two children, both sons, the oldest one named Henry Vrooman Colby, named after his mother's father, and the other one Gilbert Winslow Colby, named after my father. Both sons attended public school here in Berkeley, each graduating from the University of California. Henry graduated from the Harvard Law School. I feel rather proud of him because they start Moot Court work in Harvard Law School in the first year, and each time a moot case is tried one-half of the participating students are eliminated until finally in the senior year they get down to the finals. My son was one of the last eight. A good many of his classmates thought he ought to have been in the last four because it was due to a misunderstanding of the nature of the case which was tried

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Gilb: Why did he go to Harvard rather than here?

Colby: It's rather difficult to tell. I think that the idea that was in my wife's mind and my own was that he should have some Eastern experience, and it proved of value because when he returned to California the fact that he was a graduate of Harvard with high standing made quite an appeal to the office that he entered at that time, that was McCutcheon, Olney's office.

Gilb: Did he ever talk to you about Pound?

Colby: Yes. He admired Pound greatly. My younger son also went to Harvard to the Business Administration School. We sent him there because that was supposed to be the leading Business Administration School, with possibly one exception, in the United States. And I also felt rather proud because he graduated with distinction. He missed getting high distinction, which only about three students

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Gilb: Would you have liked it, if she did?

Colby: Well, I don't know. I had thought of it at times, but she didn't seem to care for it particularly. She took the law course more as an education. She was a great admirer of her father, who was such an eminent lawyer, and that was one reason why she was attracted to the law course. Unfortunately, my first wife passed away in 1949, I think it was.

Two years later I married my present wife. Helen Leach was her maiden name, and at the time I married her she was Mrs. Flemming. It is rather interesting that I met her in the mountains on one of the Sierra Club trips which I conducted in 1923, and she attended another outing in 1925. She married later on and had one daughter, Sylvia Christenson, who is now attending the University of California. My wife was an artist, has been a professional artist in past years and is still greatly interested in art.

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Colby: She was a commercial artist for several years but was glad to give it up and now paints and draws for the pleasure it gives her.

I've always enjoyed getting out in the country, so shortly after -- no, not shortly after, several years after, 1913 as a matter of fact -- after our two boys were growing up, my first wife and I bought a lot and built a very attractive country place in Inverness, Marin County. She used to take the two boys up there Friday afternoon after school. I would come up Saturday afternoon, after I got away from the office, and spend all Sunday there. We'd start down Monday morning, getting up about four o'clock, taking the horse stage over to Point Reyes Station, the narrow-gauge train down to Manor, then the broad-gauge train to Sausalito, and the ferry across, and then I went up to my office and she continued on the ferry across the Bay to Berkeley, the train, and then installed the boys in school there. And when the teacher complained that either one or the other boys went to sleep during the daytime on Monday, my wife had a ready explanation. But we enjoyed the stay at Inverness because it took us outdoors. At one time I had eleven boats in a boathouse that I had bought down on the Bay, hunting boats and

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In the fall of 1905, my first wife, Rachel, and I built our present home here in Berkeley at 2901 Channing Way, where this recording is being made. And I have maintained this as my home ever since. It has proved most satisfactory because of my relationship with the University, my boys going to the University, two of my nephews went to the University and stayed here and I lectured for 26 years at Boalt Hall. Later on I acquired a country home down the coast, below the Big Sur river, where I go now weekends with my wife and where we have a great outlook on the ocean on one side and into a redwood canyon on the other.

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II

Gilb: This part of the interview with William Edward Colby was recorded on October 21, 1953 in his home.

Mr. Colby, would you like to go ahead with your narrative?

Colby: This afternoon I'd like to talk about my conservation work and my interest in conservation.

My parents were both very much interested in the out of doors, my father and mother having taken trips in their two-horse carriage to Calaveras Big Trees, and Yosemite in the early 70's before I was born. I can remember a trip I took with my father after my mother's death -- I must have been four or five years old -- from our home at Colby's Landing on the Sacramento river when we drove up in our team to some meadows in the Sierra in Plumas County and camped there evidently for a couple of weeks. I can remember the wonderful pine forest. And very early in our stay there they brought into camp to show the paw of a huge grizzly which some hunter had shot nearby at that time. I was very much impressed with that because they told me that if I strayed from camp any distance that one of those grizzlies would get me.

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My father was a grizzly bear hunter. That was one of his favorite hobbies. And I was told afterwards by a cousin much older than I that he had been taken by my father on a grizzly bear hunt, and my father had nearly run his legs off. My father was a civil engineer and surveyor and was noted for his travelling abilities, travelling on foot.

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My first direct connection with conservation came during my first trip into the Sierra, which was taken in 1894, starting toward the end of May and it was completed about the middle of August. It occupied nearly three months, and I went with two older men, both graduates of the University, one taking work at Hastings Law School and the other getting his master's degree. It was only his fourth year in college, having completed his bachelor's work in three years. He was one of the most brilliant men that I ever met. His name was Leon Solomons, and he afterwards attended Harvard University and got his doctor's degree in a very short time. Both Professors Munsterberg and William James, in the Department of Psychology where he specialized, stated that he was one of the most stimulating young men that they had ever met.

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He afterwards became Professor of Psychology at Nebraska University and then at Wisconsin, where he died from a very minor operation, because he was one of the most high-strung individuals I ever came in contact with. The other fellow was Ernest Bonner, who afterwards became District Attorney and Superior Judge of Modoc County. He was much more phlegmatic. We arranged for the trip, and would go up into the hills here at Berkeley up Grizzly Peak sometimes on moonlit nights and lie out there on the side of the hills discussing our great trip that we were going to take into the Sierra. We all of us had read John Muir's writings, and at that time his magnum opus, which was written for the San Francisco Bulletin and issued in very fine illustrated form, very large pages, had just appeared. And in that were intimate descriptions of Yosemite Valley and the Sierra, illustrated by engravings taken from William Keith's paintings and those of other noted artists, as well as photographs. We started from Placerville and travelled down the Sierra through the Calaveras Big Trees, Lake Eleanor, Hetch Hetchy Valley and over to Yosemite where we spent quite a few days. From Yosemite we went up into the Tuolumne Meadows, and stayed there for about a month, took a knapsack trip down Tuolumne Canyon,

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which had only been visited by a very few hardy explorers like John Muir and Galen Clark. We then visited the Mono Craters, climbed several of the mountains in the vicinity, and returned home toward the middle of August. This trip gave me a very wonderful insight into the beauties of the Sierra and the magnificence of that range. I realized that travel of that sort was of the very highest order, something that I repeated largely during the rest of my life as long as I was able to go into the mountains and do the strenuous hiking that was necessary for such trips. I met some people on that trip in Yosemite and other places who afterwards had quite an influence on my life and became some of my very intimate and best friends. Among them was Professor Joseph LeConte -- J.N. LeConte, the son of the elder Professor Joseph LeConte, the noted geologist, whom I also met. I had taken work with him at Berkeley, so I knew him, but I met him and had a very delightful chat with him at Crockers on the Big Oak Flat road going into Yosemite. I also met Robert Price, who was then the Secretary of the Sierra Club, whom I succeeded in a very few years.

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defending the Yosemite National Park, which had been created by its President, John Muir. And most of the people who went into the Sierra belonged to the Sierra Club. I was requested in 1900 to become the Secretary of the Sierra Club. This was almost entirely due to the friendships that I had made among Sierra Club members on that first expedition. I was glad, indeed, to take this position because of the very fine type of people who were members of the club and the character of the work which it involved. John Muir was the President of the Sierra Club, had been from its organization in 1892 and remained its President until the date of his death, Christmas eve, 1914. As a result of my election as Secretary, I was brought into very close and intimate contact with Muir. He invited me up to his home Alhambra Valley near Martinez, and I visited him many times there talking over various matters that involved the Sierra Club and conservation. It is interesting that my mother should have taught his wife, Louise Strenzel, before she married John Muir, and I met Mrs. Muir on these various trips to the Alhambra Valley in the early days of my secretaryship before Mrs. Muir passed away.

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One of the first extremely important matters that came to the attention of the Sierra Club and which I was called on to take charge of was the campaign for the recession of Yosemite Valley to the federal government. John Muir had lived in the valley for several years after he first came to California along from about 1870 to 1880 or thereabouts and had become very devoted to everything that concerned the Valley. He became distressed at the manner in which the valley was managed because it had degenerated from a very fine group of Commissioners, who were appointed by the Governor when the state park was created by Congress. It had become a political catspaw, and members of the Yosemite Commission, with very few exceptions, were appointed for political reasons rather than for any qualification for the position.

Gilb: Was it a salaried position?

Colby: It was not a salaried position, but the expenses of the commissioners were paid and it had a certain political prestige, so that rather important people were often times appointed on the Commission but without any particular qualification for guiding the best interests of the Valley.

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Theodore Roosevelt into Yosemite and guide him around on a camping trip above the Valley.

Gilb: What year was this?

Colby: This was in 1903, I believe. It was when Roosevelt came out during his Presidency on a tour of the Coast. Muir took the opportunity to get Roosevelt committed to the idea of having the state park, which included the Valley itself, turned back to the federal government and included in the great national park which surrounded Yosemite and which included something over 1000 square miles.

Gilb: What would be the advantages of having it be national?

Colby: The advantage of having it national was that in the first place Yosemite Park was only a small area extending a mile back from the walls of the Valley itself, and this small area was entirely embraced within the larger national park. It resulted in a great conflict of interests. Sometimes a fire would start on the border. The national government would claim that it was in the state park, and the state people would claim that it was in the national park so that this conflict of interests was rather serious so far as carrying on the operations of the two parks in a cooperative way. And more fundamental than any-

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thing else was the fact that Yosemite Valley was operated through state appropriations, and they were very meagre. I was amazed when I started to investigate to find out how much was appropriated, only ten to fifteen thousand dollars a year to cover all of the expenses, which included the expenses of the Secretary of the Commission in San Francisco, his offices there, the travel expenses of all of the Commissioners, and the salary of the "Guardian", a state official, and whatever money was left over was used to keep up the roads and trails and buildings, etc. It was a paltry amount so that it was no wonder that trails were in bad condition, as well as the roads not surfaced at all, and there was a general unkempt appearance about the Valley floor, which we noted when I went into the Valley first in 1894. So that with these arguments, John Muir was able to interest not only Theodore Roosevelt in having the Valley turned back to the federal government but George C. Pardee, Governor of California, also, who was a member of the party though he did not accompany Roosevelt on his trip with John Muir, which was a private affair. Pardee was also willing that the Valley should be turned back, and that arrangement was made between them, but of

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Gilb: Of what year?

Colby: Of -- that would be 1904, I think. I got it out none too soon. In fact, the speaker of the Assembly, William Waste, who afterwards became Chief Justice of the Supreme Court of California, told me that he received my little leaflet in the mail just before he left Berkeley to attend a Masonic meeting in Oakland one evening. He read it on the way over on the street car and became thoroughly convinced that our cause was just. During the Masonic meeting, he was called out by an Examiner reporter and asked what he thought about this proposition. So he was able to tell

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him without any question. The Examiner was violently opposed to the transfer.

Gilb: Why?

Colby: The reason for the Examiner's opposition was manifold. I found that -- after many years of experience -- Hearst had little sympathy with parks. One reason was that he had purchased a beautiful home. It was a small hotel, in the Grand Canyon National Park, at Grandview. And he didn't like park restrictions and it showed up in many other ways. This was long before that, but he had the same trend of thought. His principal argument was that we would be virtually moving the Yosemite Valley back to Washington, and we'd have to get down on our knees and go to Washington to be permitted to enter the Yosemite Valley and that it was a great reflection on the people of the State of California if they couldn't run something that was within their own borders. Another reason, and probably one of the principal ones, was the fact that a very prominent criminal lawyer by the name of W.W. Foote, who had offices in San Francisco, had been during the latter portion of his lifetime attorney for the Examiner and the Hearst interests. He had been a Commissioner of the Yosemite Valley, a State Commissioner.

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He had died shortly before this, but his partner, J.J. Lerman, had become the attorney and had been made Secretary of the State Park Commission, so that this intimate tie with the Examiner explains in large part their great opposition. Anyway, the first day that the Examiner came out after they had gotten wind of our little leaflet, they had a full front-page picture of Yosemite falls and underneath was this label, "Do you want to have this taken away from the residents of California and practically moved back to Washington." And they played up that sentiment very powerfully and devoted at least a page of the Examiner, each day all during the campaign which lasted for a couple of months or so, getting everyone that they could to advocate the retention of the Valley by the state. I realized right away that we were up against a very difficult battle, and that if we were to win we'd have to do something very drastic; so I take credit on myself for having thought up a strategy which proved successful. I remembered that John Muir had been a great friend of E.H. Harriman, the railway magnate. Harriman had a nervous breakdown and his doctors ordered him to take a sea voyage and a thorough vacation and forget all about railroads. He asked if he could take friends along with him. The doctors said,

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"Yes. Take plenty of them, but don't take any railroad men." And he invited leading scientists: John Muir, John Burrough, a great many others in the government service, who were biologists, geologists and botanists and so on, on what was called the Harriman Expedition which went to Alaska in 1893 with the very fine object of writing up the geology, geography, and botany of Alaska. So John Muir was included. I remembered this, and Harriman, because John Muir didn't kowtow to him and show the deference that so many of the other members of the party did, took a great liking to him. And every time that Harriman would come to California after that, he would get in touch with John Muir and try and get him to go up to his lodge at Pelican Bay, Klamath Lake or up to his Idaho lodge. So I realized that this great influence could be brought to bear; Harriman, through the Southern Pacific -- was President of the Southern Pacific Railroad Company at that time, and the Southern Pacific had almost absolute control of the legislature. They did it for self-protection, of course, to protect their own interests. But they had such a control that they could do almost anything that they wanted to, within reason, with the legislature. So I told Muir to write to Harriman and tell him in great

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detail why the Valley should be returned to the federal government. As soon as Harriman received the letter, he wired out to William Herrin, who was the chief counsel of the Southern Pacific Company in California and who handled its political affairs. Herrin called me over to his office, and I explained to him all the details, gave him the data that we had accumulated on the subject. And he told me, he said, "Now don't think that we are going to fight this battle for you. You've got to get out and do the real fighting, and we'll help where we can where it will not affect the Southern Pacific interests." I learned more about politics and the state legislature in those few weeks than I have in all the rest of my life put together.

Gilb: Who were your opponents? Do you remember them?

Colby: Yes. One of the principal opponents was a state senator by the name of John Curtin, who came from the district in which Yosemite is situated. He was an attorney from Sonora, and he represented as a lawyer most of the interests in the Valley -- the hotel people, the stage people, and all the other interests. And he had had several battles with the United States government over the cattle which he drove into the Yosemite National Park and allowed to run free over great portions of

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the park. They tried to stop him. Colonel Benson, who took over the management and -- was in charge of Yosemite National Park, tried to stop him and drive his cattle out, but he got a decision from the Supreme Court of the United States to the effect that he could do that as long as the federal government did not fence his land and keep the cattle from running into the park, and on that ground he was very bitter against the national park and made a very good champion for the other side as well as representing all his clients. So, it really was a battle royal on that ground. I found out, however, that several of the leaders who everybody knew represented the Southern Pacific Company fought us and made speeches against us and so on. I found out afterwards that this was a part of the game. The Southern Pacific wanted to divert attention from itself, and by doing this would get people to believe it was not interested in the recession. John Muir and I took nine different trips to Sacramento to talk with members of the legislature and try and get them to vote favorably, and I always reported to Mr. Herrin when I came down as to how things were getting on. I told him one time that Charlie Shortridge, who was really a Southern Pacific representative in the fact that

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So David Starr Jordan was one of Shortridge's constituents, and he and others, some very high member in the Catholic Church in San Jose helped us tremendously (one was head of the Sempervirons Club), and altogether we brought this pressure to bear on Charlie Shortridge. So when the vote came up, it passed the Assembly very easily, by a great majority. But in the Senate, we checked up and found that we needed one more vote, so when it came to the balloting in the Senate, Shortridge, when his name was called, got up and said that he was still of the opinion that the Valley should not be turned back but he had

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heard from so many of his constituents who wanted him to vote in favor of the recession that he would have to do it. And that carried the day. Of course, Governor Pardee signed the bill without anyquestion.

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Colby: After the recession of Yosemite Valley to the federal government by the legislature of California, it became necessary for Congress to accept it to make it legal. The state had originally accepted the responsibility and therefore Congress had to agree to take it back. We thought that there would be no difficulty because the very strong adverse sentiment that had arisen in California through the work of the Examiner was entirely lacking the East and among the Congressman generally. But to our consternation, when the bill came up in the House of Representatives -- it was sponsored by a very prominent Congressman from Stockton, -- Speaker Cannon would not recognize him, and Cannon at that time was the Tsar of the House. Unless he recognized the advocate of a bill, it was dead. So, when I found this out -- it was Congressman Needham, who afterwards became a Judge in the East by appointment -- I immediately got in touch with John Muir and told him of our trouble and that he'd better get

heard from so many of his constituents who wanted him to vote in favor of the recession that he would have to do it. And that carried the day. Of course, Governor Pardee signed the bill without any question.

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Colby: After the recession of Yosemite Valley to the federal government by the legislature of California, it became necessary for Congress to accept it to make it legal. The state had originally accepted the responsibility and therefore Congress had to agree to take it back. We thought that there would be no difficulty because the very strong adverse sentiment that had arisen in California through the work of the Examiner was entirely lacking the East and among the Congressmen generally. But to our consternation, when the bill came up in the House of Representatives -- it was sponsored by a very prominent Congressman from Stockton, -- Speaker Cannon would not recognize him, and Cannon at that time was the Tsar of the House. Unless he recognized the advocate of a bill, it was dead. So, when I found this out -- it was Congressman Needham, who afterwards became a judge in the East by appointment -- I immediately got in touch with John Muir and told him of our trouble and that he'd better get

busy with Harriman again because Harriman, of course, through his Southern Pacific interests had great influence in Congress. He wired Harriman the difficulty and in a day or two Cannon recognized Needham. The bill passed the House by a very large majority. One reason for the opposition of Cannon was probably the fact that he was a great economist, and he wanted to cut down on federal expenses everywhere. He thought that if the state would pay for the upkeep of the Valley, that was all to the good.

Then we thought our difficulties were over. The bill came up in the Senate, and Senator Perkins, who was next to if not the Senior Senator and had great prestige and power on that account, had introduced the bill and was one of the charter members of the Sierra Club so that he was very strongly in favor of it and would do more than most persons would on that account. But the bill was referred to the committee on public lands. The chairman of that committee was a Senator from Dakota, I think before Dakota was divided. In any event, this chairman would not report out the bill. The reason was that he had visited the Valley the year before, and the Yosemite and Eastern Railroad, the little branch road that extend-

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ed up from Merced to El Portal, had taken him in tow, told him their troubles, and they had had a rather violent contest with the Southern Pacific company. The Southern Pacific company wanted to own and control the railroad, and the Yosemite Railroad would not give up their interest and control. So they had enlisted the support of this Senator. The Southern Pacific in order to get a little advantage over this branch railroad had provided in the bill before Congress for the cutting off of a small corner, that was inconsequential as far as any park value was concerned, of the park which would enable the Southern Pacific railroad to run a branch road in from Fresno and in that way compete with the Yosemite road. For this reason, this Dakota Senator would not report the bill out, which meant that it was dead if he continued in that view. However, Senator Perkins was so powerful that he obtained the consent of two-thirds of the Senate, and when a bill came up to provide an appropriation for the District of Columbia, which was a custormary bill every year, he moved that the Yosemite recession bill be taken out of committee and brought up on the floor of the Senate. He obtained the two-thirds vote which was necessary, and the bill was called out and passed

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without any difficulty. And of course President Roosevelt signed it without question, as he had already promised John Muir. So that we finally concluded this long and arduous campaign.

Gilb: Did any other newspapers besides the Examiner oppose you?

Colby: The Examiner and the Lodi Sentinel were the only two papers in California that opposed it, and we had favorable editorials from almost every other paper in the state, showing the overwhelming public sentiment in favor of the transfer. As it has turned out from a practical standpoint, Congress commenced appropriating sums ranging up to $50,000 at first and then $100,000 a year and now, I don't know what the amount is but it is upwards of $250,000 or more each year for the upkeep of the Valley as compared with the $10,000 or $15,000 the state appropriated before. Any fair-minded person would agree that the transfer of jurisdiction was one of the finest things in the interest of the Valley itself that was ever done.

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San Francisco became interested in acquiring this as a municipal water supply. When we heard of it, of course John Muir was tremendously exercised to think that a great part of his work would be undone. And so the Sierra Club very strongly opposed this application by the city of San Francisco. We were successful in preventing the grant for a number of years.

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Gilb: Were they all just interested in preserving the beauty, or were there any other interests involved?

Colby: No. It was entirely preserving the beauty, and the fact that it was a national park and that this would set a very serious precedent if national parks could be invaded on such a count. We even enlisted the support of civil engineers, hydraulic engineers, who aided us in preparing reports showing that there were very many other, half a dozen other, sources of supply that San Francisco could have obtained. And that was absolutely demonstrated later on by the fact that Oakland went over to the Mokelumne River and obtained a very fine water supply and brought it into Oakland long before San Francisco got the Hetch Hetchy supply even.

Gilb: Well, that would take care of water but what about electric power?

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Of course we opposed the Raker Act, which was the granting act, and Congress put a number of conditions in the Raker Act that were supposed to be for our benefit. We didn't care anything about them because if the Valley was lost we felt the major wrong was done and it couldn't be righted by any conditions that were put in the Raker Act. They never amounted to anything so far as benefiting the situation was concerned. I'm quite sure

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Gilb: Do you think that the fact that there was a progressive government in California at that time affected the situation any?

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the park. However, unfortunately we had to leave the Kings River Canyon floor itself and the Tehipite Valley out of the park, which was a very serious lack. However we felt that it was better to take the country above it, above these two areas, into the park while we could and then fight for the preservation of these two valleys later on. And things are developing so that it shows that our judgment was good. The park was created, and Ickes carried through magnificently because there was great opposition. It passed the House of Representatives fairly easily, though there was great opposition there. But fortunately the Congressman representing the Fresno Region, Bud Gearhart, after the Ickes compromise in that region, favored it, and he was our main strength. But Ickes finally was a little dubious about its getting through the Senate, so he personally got President Roosevelt to write letters to various Senators asking them as a favor to vote for the bill. The bill carried, by some small majority. And that created the new park.

I had a great deal to do with that because I drafted the little pamphlet we got out illustrated by some very fine photographs of the region, and we sent out -- the Sierra Club sent out more than

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Colby: I was appointed Secretary of the Sierra Club in 1900; and I started running Sierra Club outings, largely at the suggestion and backing of John Muir, in 1901. We felt that we needed a reserve of people who knew the Sierra and its needs well enough to help us fight our battles in Congress and before the state legislature, and that we could only get them acquainted with the wonders of the Sierra and the need of preserving these wonders by taking them into the Sierra and getting them familiar with the region. So I started these outings in 1901. We had a party of 100 this first time and went into the Tuolumne Meadows. In 1902 we went into Kings River Canyon. Because of the fact that Kings River Canyon was seldom visited on account of the difficulty of getting in there, we were overwhelmed with applications and we took 200 people in on that trip. And the same way with the Kern, on the following trip, we had a party of over 200. Then in succeeding years we finally decided that it was difficult and it destroyed some of the value to have more than 200 people, by reason of the congestion that would result.

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And I ran those outings for thirty years or more, and I was Secretary of the club for 46 years.

Gilb: Did you receive any salary or payment of any sort?

Colby: No. At first, when I first became secretary of the Sierra Club, in 1900, the organization was very small and not very much had been done in the way of having headquarters and so on. They paid me fifteen dollars a month; it was given to me largely for stamps and expenses of that kind. So that I never received any real salary. It was all a labor of love, and I was more than repaid by my contacts with John Muir for the fourteen years that he was alive after I became Secretary prior to his death. I was President for two years during the war, and Joe LeConte took over the secretaryship for that period.

Gilb: Which war?

Colby: The first World War. I resigned as Secretary and Director after 46 years, and I was made honorary chairman of the Board of Directors, and then after Joe LeConte's death, Joe LeConte having been made honorary President, I was made honorary President and I still am.

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League, and Duncan McDuffie, the great conservationist, and Newton Drury, who is now chief of the Division of Parks in the state park system and was a director of the national parks until recently, together drew up a bill, which was introduced in the legislature creating the State Park Commission. The Save-The-Redwoods League had put in so much money into purchase of redwoods that it felt that a definite official organization was necessary to carry on. We drafted this bill to create the State Park Commission, another bill to provide for six million dollars for the purchase of state parks, and still a third bill for a state-wide park survey. The bills all passed the legislature, and the bond act, however, had to be put up before the people for a popular vote and it carried by a tremendous majority, about three or four to one. That gave us six million dollars which had to be matched by another six million given from private or county sources, so that inaugurated a great era in the state park system. Before that, the few state parks that there were had been controlled by very local boards with no common organization. We discussed the question of who should become the State Park Commissioners. I was asked to consider the proposition but turned it down on the ground that I could do more good

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Governor Young appointed Ray Lyman Wilbur, at that time President of Stanford University; Senator Chandler who had retired from the Senate and who was a very important politician from Fresno and a very upright man of the highest character; Henry O'Melveny, a very prominent attorney of Los Angeles; and Major Burham, who had been the head of the British Scouts in the Boer War. He had also been

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a scout for the United States in the Apache days and was a very remarkable man in many respects. He was a very short fellow, not much over five feet tall. He said that he owed his life to the fact that he was so short that all the bullets that had been aimed his way had gone over his head.

We organized in Sacramento, and I was selected as chairman of the Board because of my central position in San Francisco so that I was available under all circumstances. We secured a very remarkable woman as Secretary, a Mrs. Gregory. I thought at first it was a political deal when the director of Natural Resources came to me and said that this woman was very competent and he'd like to have her appointed. But I found it was far from that, and it had only resulted from the fact that he had come in contact with her -- she'd been connected with the Municipal Water District here around the Bay Region and had done such wonderful work there that he felt she would make a very fine Secretary, which she did. She was really half of the operation of state parks after she took hold. She was such an organizer.

Gilb: Was your job a full-time job?

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Gilb: Did all the other Commissioners spend that much time?

Colby: No. Being chairman -- and I made another condition, which turned out to be very unfortunate as far as I was concerned, that the office should be in the Mills Building next to mine. It resulted in the fact that nothing was decided without coming and referring it to me, and if anybody called at the office of any consequence or had any matter of importance they always called me in to help out on the discussion. I found that that did take a great deal more of my time than it would have otherwise, and at the same time it saved time in the fact that I could contact the representatives immediately when any occasion arose.

We were very fortunate in securing the services of Frederick Law Olmsted, the leading landscape architect in America, who knew more about parks than anybody else, and he did it largely as a labor of love though we did pay him some for his services, but never anything commensurate with the value of the service that he performed.

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Then the question arose of acquiring these state parks. They were legion in number, and we had to go through the various suggestions made and boil the thing down. With the help of Mr. Olmsted, we did get it down to a point where we knew

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Gilb: How long did you remain on the Commission?

Colby: I remained on the Commission for nine years, and I resigned in 1936, largely because of a change in administration which was very distasteful to me because under this new administration Mrs. Gregory, who had done such wonderful work for us, was relieved of her job. It was given to a politician; the chief of the Division of Parks, Colonel Wing, who had been the head of the civil engineering department at Stanford University and had done a wonderful job with his great knowledge of civil engineering, he was displaced and one of the poorest sort of politicians out in his place.

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Gilb: It was still a Republican administration, wasn't it?

Colby: Yes, but it was an absolute change. We started under C.C. Young, under a reform movement. And under him everything went perfectly.

Gilb: How about under Rolph?

Colby: Under Rolph, we would have had difficulty because of the politics. When Rolph got in, he was one of the most astute politicians we ever had, and he of course had all sorts of political obligations and friends. We were very fortunate in the fact that Rolph's manager -- he had been his secretary as mayor and he was his manager for the gubernatorial campaign -- was Ed Rainey, and Ed Rainey had been on Sierra Club outings, a great friend of mine. And he went to Rolph after the election and said, "Now there's one person that you must not displace. That's Will Colby." And he didn't say that as to other members of the Commission, and some of the other members were displaced for political reasons. One of them was Arthur Connick, who was really a wonderful fellow, in connection with the Redwood Highway and the acquisition of redwoods. He is now the President of the Save-The-Redwoods League. But because he would not make Governor Rolph a loan to build wooden ships in the first World War (I guess that must

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have been it, the first World War), which turned out to be that his judgment was perfect because the war ended and wooden ships were just a drug on the market, so because of that Rolph displaced him almost immediately. He left other members so that we got along very well. And because of Ed Rainey, Governor Rolph did not interfere in any way with the administration of the parks with one or two exceptions. They were very minor and didn't amount to very much. He left us alone.

And then Governor Merriam came in upon Rolph's death. He was Lieutenant-Governor and became Governor, and during the remainder of what would have been the Rolph administration he kept hands off. But he ran for election as Governor and was elected, and the very day that he was elected and his new administration came into office he undid a tremendous amount of work that we had done. I saw right away that there was going to be trouble and that it would be very distasteful to me to stay on. I stayed on, however, in spite of this -- of the fact that our secretary and our chief of the Division of Parks had been arbitrarily removed without any consultation with us. But I stayed on because we were making commitments still with the six million dollar bond issue. I made

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up my mind I was going to stay until all those commitments, until I saw them all through, and the money which was available had all been pledged. And I did that, told Governor Merriam that I was going to resign when we accomplished a little more. And one day he called me up and wanted to know if I still wanted to resign. So I told him, "Surely." It wasn't long after that before he appointed somebody in my place.

Gilb: Did the policy of the Park Commission remain the same after that? under Olson?

Colby: No.

Gilb: Did it change under Olson?

Colby: Oh, under Olson. That was the worst of all.

Gilb: Worse than Merriam?

Colby: Oh, my yes. Terrible.

Gilb: How did it differ?

Colby: Well, under Merriam it was bad enough because the man he put in as chief of the Division of Parks was corrupt -- there's no question about that. He tried to put over deals on the Park Commission which we headed off. We saw they were coming, you know, and simply wouldn't stand for it. That was one reason Merriam didn't want us. But later on under Olson, they put in as administrative officer to select park lands and deal with them a

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Gilb: Did it improve any under Warren?

Colby: Well, yes. Under Warren, of course, it came back again to a solid foundation. The difficulty with Warren is -- I'll probably have to suppress this til some time later -- that Warren carried the idea of political favoritism and giving these positions on the State Park Commission as a matter of political friendship or favoritism. He did, however, not at my suggestion because he'd have done it anyway -- Joe Knowland, the Tribune man, had been on the Board under me. I mean, he had been one of the Commissioners when I was chairman, and I found he was straight, and while I didn't always agree with him in judgment, you could rely on him that there would be nothing underhanded or anything of that sort done when he was in charge. So he was made chairman by Warren when Warren came in and was able to appoint the new Commissioners. He appointed Leo Carillo,

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who had no qualification whatsoever for state parks, but Leo Carillo had campaigned with Warren in the same auto, was a great friend of Warren's, and Warren knew of course that he could get votes in that way. They travelled all over the state together in their campaigning, and he appointed him.

Gilb: What good would that appointment do him if he had no interest in the subject?

Colby: He thought he wanted to do something for his friends.

Gilb: What good would it do his friends?

Colby: None particularly except that it was an important office and had a little prestige connected with it.

Gilb: And that was all?

Colby: That was all. And Leo Carillo attends meetings sometimes and usually he doesn't, and he's a good enough fellow. No question about that. I like him. I met him at some of the Board meetings, and he's a very likeable fellow. But he doesn't know anything about parks. He did appoint a fellow, a Charles Kasch, an attorney from Ukiah. And the interesting thing was that he was a former student taking my work in mining and water law at the University. He is one of the most act-

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ive of the Commissioners. He actually gets out and travels all over the State and visits the parks. He knows what their needs are. And so he's a very reliable fellow, and that's a good appointment. So that I have to modify some of my criticism in Warren's later appointments. He appointed a very fine man from San Diego -- Judge, I can't remember his name, but he was a very good appointment. He appointed more recently the President of the College of the Pacific, who evidently -- I don't know much about his park qualifications, but he evidently is going to be a good member of the Commission because he intends to go out and visit the parks and find out what he's voting on. So that I'll say that Warren's later appointments are much better than his earlier ones. And of course Governor Warren could be relied on absolutely because he is of such fine character and so dependable, and usually we had no difficulty, the Commission I mean had no difficulty. I, of course, wasn't on the Commission since he became Governor. In fact, he asked me if I would go back on the Commission, but I thought that I had had such a wonderful time, one of the happiest experiences of my whole life, and accompliched so much which I knew I couldn't accomplish under any other circumstances because

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the conditions were just perfect when we took over the new Commission and purchased the lands under the bond issue and so on.

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Gilb: I've read somewhere that you drafted a forest fire law for California. Can you tell us about that?

Colby: Yes. I helped to draft it. There was an organization called the California Water and Forest Association, which was organized in the early part of this century. It was public spirited. It just started on the examination of what water interests the state had and what should be done with them and also the forests. It had nothing to do naturally with federal forests, but these were state-owned forests, that afterwards were acquired. They were owned by the state at that time. So we in conjunction with Mr. Thomas, Will Thomas, a very noted attorney in San Francisco, much older than myself -- I became associated in this organization because of my conservation interests, particularly in connection with the Sierra Club; I was really a representative of the Sierra Club on this new organization. We held meetings at various times and drafted this act which was for the protection of the forests and also had something to do with water resources.

the conditions were just perfect when we took over the new Commission and purchased the lands under the bond issue and so on.

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Gilb: When was that?

Colby: That must have been way back in 1903 or somewhere along there. The very early part of this century. And that was the first forest fire law that I recall, and I think it has been referred to as one of the first in the United States.

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Gilb: Can you tell us something about your work on the Yosemite Advisory Board? When did you start that?

Colby: Yes. I was appointed by the Secretary of the Interior as a member of the Yosemite Advisory Board, which had three members and which was created under an Act of Congress in a very indirect way. In making an annual appropriation for Yosemite Valley, the Yosemite Advisory Board was authorized. So it became an official body, appointed by the Secretary of the Interior. When Mr. Newton Drury became Director of National Parks, and Secretary Ickes later on -- he was disappointed in some ways with Mr. Drury because he didn't agree with him on some of the subjects -- said I was largely responsible for Mr. Drury's selection. Which I don't think is entirely correct, but I did write a letter of approval and recommendation because Mr. Drury had been the investigating officer for land acquirement under the State

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Park Commission. I found that he was thoroughly reliable and very conservation minded and so on, so I could recommend him very completely, which I did. Mr. Drury had been on this Board, and he had to resign naturally when he became -- couldn't hold two offices under the Department of Interior so he resigned, and I think it was largely due to his resignation and perhaps also Duncan McDuffie that I was selected to fill the vacancy.

Gilb: What year, do you know?

Colby: I couldn't tell you offhand. It was about twelve years ago, I should say. And I have acted on that Board ever since. Dr. John Buwalda, who is a very eminent geologist, head of the geological department of the Institute of Technology in Pasadena and was a professor of geology here at the University for a number of years, is another member of the Board and I think he has been a member of the Board practically since the beginning. Mr. Olmsted was one of the first members of the Board, but when he removed from California and went east he naturally resigned from the Board. Though he now has returned to California and has been reappointed so he is again a member of the Board to take the place of Duncan McDuffie, who passed away three or four years ago -- about three years ago. Our duties are to recommend, to consider

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and make recommendations on any matters of importance that come up in connection not only with Yosemite Valley but the Yosemite National Park -- new roads, of which the whole policy now is not to build new roads if we can possibly help it, but any roads that might be changed, on the floor of the Valley for instance a road has been changed to take the place of a road which is going to be eliminated, and the trails, we recommend that certain trails be built and pass on any new or proposed buildings or structures.

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III

Gilb: This part of the interview was recorded on November 2, 1953. Would you like to go ahead with your story, Mr. Colby?

Colby: All right. I'm going to tell about my preparation for the practice of the law and my experiences during that practice, which has continued up to the present time.

I originally when I was a small boy had an idea that I would like to be a naturalist. I did not know John Muir at that time or anything about him, and yet I would have started out on a life very much like his. I had read a diary published by someone who had gone up the Amazon River, and I was greatly taken by that so that one of my principal objectives would have been to have made a trip up the Amazon carrying out this idea of following the naturalistic study. And John Muir, of course, had the same idea in his mind but was never able to carry it out until he was over 70 years old. And he took his trip up the Amazon.

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should become a lawyer; and it was not until I had a best girl that I really thought that a naturalist wouldn't be adequate and that I should do something that was more important, which seemed to be practice of the law. My father was a lawyer, admitted to practice in California in 1852. And in his library I found law books -- one especially which I remember which was a dictionary of law terms. So after I decided in my own mind that I might follow the practice of the law, I used to read that dictionary, and got my first ideas of law from it.

I attended the University of California here in Berkeley for two years and then went to the Law School. I had an opportunity to teach at the same time and make some money which was essential to continue my work at the Law School, Hastings College, where I graduated in 1898 with a degree of Bachelor of Law. I have already told about my relation with the three women who were in the law class, and that one of them was in the United States Surveyor General's Office in San Francisco, a very able young woman, who asked me to specialize in mining law because she was unable to carry on any practice in connection with her official work. And this I did very gladly because

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Gilb: Which Governor was that?

Colby: I don't recall. But he said that was the best thing that ever happened to him, the fact that he was defeated in that nomination, because otherwise he might have continued as Superior Judge there for the rest of his life, as was true of a great many other attorneys. Whereas he came to San Francisco and, under the stimulation of having to do something drastic to get into the practice of the law in a large city, he started writing Lindley on Mines, which was the first great mining work and in fact the only work of outstanding character on mining law that has ever been published. Prior to that, it was impossible to publish any really comprehensive work on mining law, because there were not enough decided cases. The law had not yet been sufficiently developed, and in his forst edition, this is shown. But he was an extraordinary lawyer in the sense that he was something of a philosopher and also a master of English so that he produced quite a remarkable work. He had already edited the Second Edition of Lindley on Mines when I knew him.

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case in Shasta County; the title is Galbraith vs. Shasta Iron Co., 143 Cal. 94. I always felt that the President of this Shasta Mining Company showed a great deal of confidence in me, for I was very young at the time and had only been in practice for two or three years, in having me try such an important case. The mine was rather an important mine, one of the most important iron mines in California. Opposed to us was a former Attorney-General of California, William H. H. Hart, who was a fairly clever man, not particularly erudite, but he had the fame of having been State Attorney General and also was attorney for Florence Blythe, which was one of the famous cases tried in San Francisco in those days, in which this estate of several millions was involved and he was one of the attorneys on the successful side. So that he had a great reputation, and I was a little timid about trying this case against him. But I had examined the law, and I felt that if I couldn't win this case I might as well find out from the beginning because it seemed as though I had the best of the argument, and it turned out so.

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had seen any of his witnesses. Of course, I didn't know them from Adam and told him so. "Well," he said, "I don't understand. They're not here." He had previously tried to get a postponement of the case, and I finally refused to give it to him after giving him a couple of postponements to begin with. So that he went into court that morning and told the Judge that none of his witnesses were there. He had seen them the end of the week before -- this was Monday morning -- and had given them money to appear there and didn't know why they were not there. So he got a continuance until that afternoon. Then he drew up some affidavits along these lines, and he presented them to the court stating that he couldn't continue with the case without them. I was willing to admit that the witnesses would testify to what he said they would, but he said he couldn't anticipate my defence so he couldn't anticipate what he might have to put in by way of rebuttal. And the Judge granted him a continuance. Judge Sweeney was the Judge, a very fine type of man who afterwards became a Director of the Mint in San Francisco. In talking to him after the continuance, he told me that he felt that it was phony, all the affidavits and everything else, but I had no counter-affidavits, and it was his custom to grant such a continuance.

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So that it was granted. We went to trial next time, and I won the case quite handily. In fact, I won it on an admission which General Hart made in open court, which he tried to get out of afterwards and said that it was only a hypothetical question asked my witness, a Deputy Mineral Surveyor, who was then on the stand. I won the case and argued it before the Supreme Court in Sacramento later on.

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One of the most important events in my law career was the fact that Judge Lindley, with whom I had a very slight acquaintance but who knew I was practicing mining law, had the habit of sending out assistants from his office to take charge locally of the law work of some of the important mining corporations he represented. He represented Bunker Hill and Sullivan Mining Company in Idaho, one of the greatest lead mines in the world, and also the Nevada Consolidated Mining Company in Nevada, which was one of the great copper mines of the world, the great open pit of Ely. And also, he represented some of the Gold field interests. And he sent assistants from his office to these various places so that handicapped him, and I was surprised that he would do

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that so consistently. And it was shortly after the San Francisco fire of 1906 and earthquake that he, knowing that I had specialized in mining law, asked me if I would take care of some work for him, which was piling up due to the fact that he had sent some of his principal assistants out in these outlying fields. I did this work for him, and I would see him every Saturday because he was trying a mining case in Nevada City at that time. And he would pile a lot more work on me, which of course pleased me very much because he complimented me on the knowledge which I had of mining law and saw that I was able to handle the matters that he turned over to me. So that finally toward the end of 1906, he asked me if I wouldn't come into his office. So I did January 1, 1907. I've oftentimes told persons that if I had had $10,000 at that time, that was all the money I had saved up, that if anybody could have insured me this position in Judge Lindley's office I would have given him the $10,000.

Gilb: Was your law practice damaged by the fire at all?

Colby: Very much so. And I had to give up temporarily specializing on mining law. I was asked to go into the office of a very eminent attorney in San Francisco, Jacob Reinstein, who was a Regent of the University, because of the fact that he was

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President of the Alumni. And he had a great deal to do with the new plan for the University, the first plan, the Maybeck plan, which was carried on largely through his organization and origination. I heard a great deal about that because it was at that time that I was more or less closely acquainted with him. He asked me if I would go into his office, but for certain reasons I felt that I preferred to practice mining law, as I did on the outside. But after the earthquake-fire, for a very short period I went into the office -- because my law office in the Mills Building in San Francisco was entirely burned out, everything I had destroyed -- I went over into Oakland, into George Degolia's office. George Degolia had been associated with Senator Henry Vrooman, who was that prominent lawyer, the father of my first wife. And because of that relationship George Degolia asked me to come into his office and take desk room in the office, which I did for several months immediately following the fire. And then Mr. Jacob B. Reinstein, with whom I came in contact and had known before, asked me if I wouldn't come into his office. He practiced corporation law, specially. So that I went over to San Francisco. He had an office at that time in the parlor of his residence out on Ellis Street. I

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He was at that time trying a case in Nevada City, a very important (unreported) case entitled Champion Mining Co. vs. The Home Mining Co. And it was rather trying on him because he was opposed by William Metson, who was one of those "knockdown and dragout" lawyers, who had practiced in Nome in Alaska and was reputed to be a gunman, and could make life very annoying for anyone. Judge Lindley, who was not of that type, felt the strain of trying this case, and he asked me to, (immediately on coming into his office regularly), come up and assist him, which I did for the last month of the trial. The trial took about three months, and I assisted him about a month. The case was interesting because we had the short end of it. Judge Lindley had great difficulty in trying to defend the case because the trespass had been committed on the other party (company), and it was only by establishing a broad lode which was not the kind

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Gilb: What effect do you think the San Francisco fire and earthquake had on the practice of law in general?

Colby: It changed the practice very materially, in the fact that the Hall of Records was burned and all the records destroyed, which is a most terrible situation to exist in any community. And McEnerney, who is responsible for the McEnerney Law Library here at the University and who was one of the ablest legal minds in San Francisco, drafted the McEnerney Act, passed by the legislature which was called into session in order to remedy the situation, and that enabled the titles to the real property in San Francisco to be replaced, reinstituted. They

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had to go through certain legal processes in order to do that so that the courts in San Francisco were clogged with these McEnerney suits to re-establish titles.

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Colby: I might say something about the various cases that I have tried, some of the most important in conjunction with Judge Lindley when he was alive. I used to assist him, and oftentimes helped him in examination of witnesses and so on and in preparation for trial. And as a matter of fact, I wrote most of the briefs on the cases that he did try and that he argued, because that is the logical thing for an assistant to do. I helped him in the last case he ever tried. Judge Lindley, like a great many lawyers, was subject to gastric ulcers. Lawyers, because of the intense mental strain of trying cases in court and the blood pressure that that results in, are chronically subject to these gastric ulcers. No doubt about that. I've had some symptoms. But I was able to get the better of it. Judge Lindley had very serious attacks which due to the physician's guidance and care, he was able to get over. We finally tried a case down in Arizona, a case that evidently he put his whole heart into, and I noticed at the last day

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Colby: I might say something about the various cases that I have tried, some of the most important in conjunction with Judge Lindley when he was alive. I used to assist him, and oftentimes helped him in examination of witnesses and so on and in preparation for trial. And as a matter of fact, I wrote most of the briefs on the cases that he did try and that he argued, because that is the logical thing for an assistant to do. I helped him in the last case he ever tried. Judge Lindley, like a great many lawyers, was subject to gastric ulcers. Lawyers, because of the intense mental strain of trying cases in court and the blood pressure that that results in, are chronically subject to these gastric ulcers. No doubt about that. I've had some symptoms. But I was able to get the better of it. Judge Lindley had very serious attacks which due to the physician's guidance and care, he was able to get over. We finally tried a case down in Arizona, a case that evidently he put his whole heart into, and I noticed at the last day

of the trial he seemed to rely on my help, turning witnesses over to me to examine and cross-examine that I was very much surprised that he would because he generally tried to take the lead as he was expected to. That evening, after the case was closed, he asked me to go over to the restaurant with him, which was a little unusual. I usually did anyway. For him to ask me was a little out of the ordinary. When he returned to the hotel, we were sitting in the lobby after dinner, and he lost his dinner and you could see from the blood with it that this ulcer had burst and that he had been bleeding internally. I helped to carry him upstairs. It was rather interesting that the opposing attorney, John Gray, and myself, should have been the ones to carry him up to his bed in his room upstairs in this very primitive hotel. The burden of course fell on me to take care of him as best I could. We got the only physician in town, and he communicated with Los Angeles and had trained nurses sent up immediately. It was in 1920, in the late fall, and the rail service had not yet been completely reinstalled after the war so I had difficulty in getting him back to San Francisco. We finally got a Pullman car that went through this little town where the case was tried, Kingman, Arizona, a Pullman that would carry all

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the way into San Francisco. He had to be taken to his home in San Francisco on a stretcher. He only lived two or three days after his arrival. And the interesting thing in connection with my law work is that I was asked to take over his practice, by most of his clients, most of the important mining companies he represented at that time. I have continued as leading counsel for many of these companies ever since Judge Lindley's death. That has been now 33 years ago.

Gilb: Was most of your work for the companies, or was it often against the companies?

Colby: No. Most of the work was for these leading companies, and because of my reputation as a mining lawyer I was selected as an associate attorney in one of the most important mining cases that was ever tried in Nevada. It was entitled Nevada Consolidated Mining Co. vs. Nevada Consolidated Copper Mines, and this case involved millions so that though they had a chief counsel in New York, a very able attorney by the name of William Wallace, and another local counsel in San Francisco by the name of Charles Chandler, who had been in Judge Lindley's office and who Judge Lindley had sent up to Nevada. He had been there for a long time and finally had come back to San Francisco. I was associated with them. The case involved a very

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important law question. And I always prided myself on the fact that this very important law firm with which Wallace was associated in New York and also lawyers with whom Chandler was associated in San Francisco had looked up the law of the subject and never found the very important cases which I unearthed up here in the attic of this very same house where I am speaking and where I kept for a long time a set of United States Supreme Court Reports, which I gave last year to Boalt Hall. And I spent many an evening up there going through all the cases that could possibly bear on the contractual question that was involved in this particular case. It was as to the interpretation of the word "all" in one of the clauses of this contract which was in controversey. It said all of the ore in a certain mining claim described, and we had to get out from under that and show that it did not mean all of the ore in those mining claims but all of a certain kind of ore. I found decisions by the Supreme Court of the United States, decided in the first place by Chief Justice Marshall and others, involving wills, contracts, and even the Constitution of the United States, in which the word "all" was held to be limited by the language used in that part of the contract, showing that it was not intended that that word "all" should mean

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literally all, but all of a certain class. And that won the case for us. In that case we were actually in court for nine months, in the federal court in Carson City. It was not consecutively, but Judge Norcross, a very able Judge, familiar with mining because of his long residence in Nevada, every now and then would have to adjourn the case in order to try criminal matters and other cases that were pressing that would take precedence. And then we'd go back and continue with the trial. But altogether, it took nine months of trial time, and it was the most important and longest case that I have ever been associated with. We won the main case and the other side brought thirteen counter-claims, and those were tried, some consolidated and tried following the trial of the main case. They won some of the counter-claims, and we won some of them. But the main victory was on the main case, which we won very handily. That interested me also because I had prepared the main briefs on certain phases of the subject, and when it came to arguing the case orally I argued phases of it. Chandler and Wallace argued other phases of it, because it was so broad in its many phases that it was practically impossible for one person to cover the whole case. It finally came to arguing the case in the Circuit Court of Appeals in San Francisco,

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where it was appealed. They selected me to argue the case before the Circuit Court of Appeals, and my long familiarity with the case of course made it possible for me to prepare that argument in a way that an outsider could not have done. I argued the case, and the interesting part of it is that the presiding judge of that time was Curtis Wilbur, whom I knew very well, who was a member of the Chit Chat Club, consisting of 25 members in San Francisco. He and I were both members of that club. It was organized way back in the early days and had been in existence for some 60 years or more at that time. That case was held under submission for a year or more, which made us and our client, the Nevada Consolidated Copper Company, very anxious. One time at the Chit Chat Club, Judge Wilbur started to talk with me about the case. But he checked himself because it was entirely out of procedure for him to do it, but he didn't get far enough to tell me what was in his mind. I found when the case was decided, he had written an 18-page dissenting opinion against our view of the case. But the other two judges refused to concur in it. That dissenting opinion was supposed to be the main opinion, but the other two judges would not agree to it and decided the case in our favor. I cannot

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Gilb: You say this was your most important case. Do you mean in terms of time spent, or the money involved, or because of the issues decided?

Colby: All of them. The issues were extraordinary, involbing the interpretation of this word "all" and also it involved the future of the entire pit at Ely, this open pit, which was the only way in which low-grade copper ores can be successfully mined. This pit at that time even was over a mile long, half a mile wide, and several hundred feet deep. There was more excavation taken out of that pit than out of the Panama Canal. It has been continued ever since, and our adversaries, the Consolidated Copper Mines Co. that had insisted that the pit should be wrecked by mining underground, and they were preparing to mine underground, and the whole object of our main suit was to stop them from mining underground, their own ores now

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Gilb: During your mining practice, which issues most frequently arose, were brought to you as problems?

Colby: Extralateral right cases. Those were the most important and the largest. I might mention a few of them that were of considerable importance.

I tried an extralateral case, or a case that involved some features of the extralateral problem, McElligott vs. Krogh, cited in 151 Cal. 132. I reversed the trial judge, who straddled the fence and gave my client half-victory in the trial court, and then I won it on appeal. Another case, a mining case, in California here that I prepared the final briefs for Judge Lindley before the Supreme Court of California, which we won was Lightner Mining Co. vs. Lane. That was a trespass case. Another one was Emerson vs. Kennedy, 169 Cal.

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718. I assisted Judge Lindley in the trial of the case of Jim Butler Mining Co. vs. West End Mining Co., which was carried to the Supreme Court of the United States in 247 U.S. 450. We lost that case, but it decided some very important principles in mining law. I assisted Judge Lindley in the trial of a number of cases, six cases altogether, between the Utah Apex Co. and Utah Consolidated. This was tried in Salt Lake City in the federal court in Utah, and the cases were decided in our favor in 277 Fedl. 41 and 205 Fedl. 249 and 252. Judge Lindley died shortly after arguing these cases before the federal court there. When we went on to try the cases, he was laid up with his stomach condition and could not participate in the trial. I don't think he participated at all in that trial, but Judge Marshall, a very eminent jurist -- he had been a federal judge, in Salt Lake City and I tried those cases. I prepared the briefs and helped Judge Marshall argue the cases before the 8th Circuit Court of Appeals. They were both decided in our favor and were very important cases. The case that I assisted Judge Lindley to try in Arizona at the time of his illness was Tom Reed Mining Co. vs. United Eastern, which is reported in 24 Ariz. 269, and

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certiorari was denied by the Supreme Court of the United States.

I tried on my own account several cases, between the 16 to 1 Mining Co. and the 21 Mining Co. They were tried originally in San Francisco and were appealed to the United States Circuit Court of Appeals there. There are found in 255 Fedl. 658, appealed 265 Fedl. 649, and again tried in 254 Fedl. 630, affirmed in 255 Fedl. 658. There were six appeals taken to the Circuit Court of Appeals in those cases. And they were the largest number of cases that I ever handled myself at that time. I won all of them. A case which I tried against John Gray in Spokane, Washington -- Northport Mining Co. vs. Lone Pine Surprise was an extralateral case, decided in the trial court in my favor, 271 Fedl. 105. Decided in my favor on appeal, 278 Fedl. 719. I considered that a great victory because John Gray was considered, outside of Judge Lindley, one of the leading mining attorneys in the West. I tried a case in Butte, Montana, the Moulton Mining Co. vs. the Anaconda Mining Co. It was decided by the lower court adversely, 20 Fedl. 2nd 1008. It was appealed and I succeeded in modifying the judgment in the appellate court, in 23 Fedl. 2nd 311. I represented the Clark

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interests in Montana -- the noted United States Senator Clark, and his son, Will Clark; his son came into my office before he left for Europe after the case had been lost in the trial court before Judge Borquin in Montana and told me that if I succeeded in reversing the case, he would add $10,000 to my fee. I naturally would have worked hard on the case anyway, but that made me work all the harder. And just before he left for Europe, which was his custom every year to spend the summer in Paris, I secured a favorable decision reversing the trial court in part. I wired him in New York, and he wired back. I can always remember that wire, that he was the happiest man in the United States as a result of that victory over the Anaconda Copper Co. which had been the great rival of the Clark interests through all the years in Montana.

Gilb: Weren't there any local mining lawyers? Why did these clients from Montana and Idaho and all those places come to San Francisco for an attorney?

Colby: Well, the reason there was because Clark lived in Los Angeles, and he was accustomed to getting outside help. He wanted to secure the services of John Gray, but John Gray had represented the Anaconda Copper Co. a short time before, so he thought it wouldn't be appropriate to take a case

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Gilb: In your work as a mining lawyer, did you find you had to learn a great deal about mining engineering?

Colby: I did. I read a great deal on the subject as soon as I found that I was going to specializedin mining law. I had taken, very fortunately, with Professor Joseph LeConte, Sr., the great geologist at the University of California, I had taken his course in geology and also a course that he gave in vein structure so that I was fairly well equipped in that respect. Then I purchased a great many books on geology and mining engineering. In

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Gilb: Did you find that recent changes in the techniques of mining engineering had any effect on the law?

Colby: No. No, the mining engineering had very little to do with the law. The law overpowered, overwhelmed the mining engineering side of it. Mining engineers and geologists had to adapt themselves to the various phases of the law that was required.

Gilb: In a general way, have there been any major changes in the methods of classifying mineral land? since you first started to practice?

Colby: No. The mining law that was in force at that time... No and yes... the mining law which was in force at that time is still in force. The Mining Act of 1872, which governed the -- all the mines of metallic minerals. But the non-metallic minerals,

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Gilb: And that's a major change in policy?

Colby: That's a very major change, brought about through the fact that the United States government and the conservation elements of -- the conservation-minded officials like Pinchot, Garfield, and Theodore Roosevelt and others, they inaugurated the system. The oil lands were being so rapidly depleted, and it had become so important for naval use of the government, that it was best to withdraw these lands and administer them under a leasing system.

Gilb: Did you find that there was any connection between your conservation work and your mining law work?

Colby: Yes. I did. There was some little opposition grew up, just as it did in the case of the Hetch Hetchy, with Judge Lindley on one side and me on the other. Judge Lindley in the Hetch Hetchy

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Gilb: Did you ever have any other incidents of conflict?

Colby: No. No. Nothing special. No.

Gilb: Can you tell us if placer mining is as significant today as it once was?

Colby: It is not in a small way. In the line of individual work. It is carried on now by large dredging companies. Most of the gold which is produced

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Colby: It is not in a small way. In the line of individual work. It is carried on now by large dredging companies. Most of the gold which is produced

in placer mining nowadays is by very large dredging companies. There is a small amount of dredging carried on by individuals or small companies, but that is comparatively insignificant. The great dredging operations in Alaska and California and other parts of the West are carried on as major enterprises by the great companies.

Gilb: Have the changes in the water law and the law of nuisance affected mining law?

Colby: To a certain extent, yes. Of course, there the great battle took place before I ever came into the law picture, between the hydraulic miners and the agriculturalists in California. That was, of course, a classic battle, which was decided in favor of the agriculturalists, eventually, and resulted in the injunctions against hydraulic mining which was later modified so that hydraulic mining can be carried on legally in California if dams are put up and the debris which results from the mining properly taken care of.

Gilb: Were most of the suits in which you were involved between mining companies, or were there any other interests in conflict with the mining companies?

Colby: They all of them were between mining companies.

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Gilb: Have you found that any minerals have come into importance in the 20th century that were not important before?

Colby: Of course, the outstanding mineral is uranium, and I have no contact or relationship with that. In fact, it is almost taken out of the hands of lawyers because the government supervises the mining of uranium so intimately and exclusively. No uranium could be mined and sold except to the government itself. And the fact that government supervises it entirely has taken it practically out of the hands of lawyers.

Gilb: Why is mining law not so important now as it once was?

Colby: Because the public domain has been so extensively located. The mines have been developed. And many of the mines have been exhausted. Those mines don't exist any longer. In other cases, the mines have been taken over by the large companies, the deposits of gold, for instance placer gold, the deposits of gold in the quartz mines and hard rock mines, as they call them, have been taken over by the large mining companies. It has become so expensive to open a mine now and develop a mining property that only a large corporation can do it, and interests have become consolidated in that way so that very few lawyers are employed by those corporations so it has concentrated the legal talent that is necessary because the public domain has been gone over so carefully, almost with a

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tooth comb by miners that you might say that the opportunities for mining have been exhausted.

Gilb: In your work as a mining lawyer did you ever run into any political problems or have any contact with the politics of the state?

Colby: In a measure. I was attorney for a while for the California Mining Association. I have forgotten the exact name, but they appeared before the Legislature. They had a lobbyist employed to appear before the Legislature, but as a lawyer I very seldom participated in that. The lobbyist was usually able to handle the matter satisfactorily. And while there was some effort to change the mining law at different times, it was not successful.

Gilb: So we still have more or less the old mining law?

Colby: We have the old mining law of 1872 in force today.

Gilb: Do you think there are any things, aspects of it, which ought to be changed?

Colby: There is one which involves a conflict between the conservation interests and the mining interests. And I straddled the fence at one time because a very important company that I represented took over an option on a group of mining claims that was inside of what was originally a part of

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the Yosemite National Park, but which had been excluded from the park, which enabled these mining claims to be located. I felt that this part of the original park should be returned to it, and I disliked to see this mining company have any interest in developing part of the original park, which was in the Minarets region where Shadow Lake and Mount Ritter exist. And it should be returned to the National Park, made a part of Yosemite National Park. We tried to prevent its being taken out, and I was very happy to see that my mining company gave up its option on the property and decided it wasn't attractive enough to justify them going ahead. But that conflict exists. And there is another conflict which has gone on for a long time in the conservation field. The national forests are being invaded by locaters, who locate mining claims for recreation purposes, in order to get the timber on them, or to develop them for a summer homesite or for some commercial purpose, such as a filling station, or even putting on a resort, a hotel. The forest service has been rather bothered with this. We have felt, however, on both sides, the conservationists and also the lawyers, that if the forest service would go after these cases that involve really improper location of mining claims as was done in the case of Senator Cameron. He

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was a United States Senator and located a lot of mining claims on the Bright Angel trail going down into the Grand Canyon. The United States went after him and brought suit, United States vs. Cameron, carried it into the courts and proved that these mining claims were fraudulent. There was no mineral justifying the location. He carried it to the Supreme Court of the United States, which decided it against Cameron. He wielded so much power that the District Attorney in Arizona, the federal District Attorney was an appointee recommended by him, and refused to carry into effect the mandate of the Supreme Court of the United States. It required a special appointment. Stephen Mather, who was then Director of National Parks, whose influence in Washington was so powerful, was able to offset Cameron's influence. He had a special Assistant Attorney General sent out to Arizona to dispossess Cameron and throw him off the mining claims, which was finally done. That phase of the conflict is still bothering the Forest Service. There are pending now in Washington bills which would modify the mining law and try to prevent this illicit filing of claims for purposes other than mining.

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Gilb: Can claims be located in the public parks?

Colby: No, they are free from it. But they can be located in the national forests.

Gilb: What happens if there are substantial minerals in those parks which are of great public importance?

Colby: Very fortunately none such have been developed. There was a case in the Yosemite National Park of a tungsten mine, a tungsten property in the very northeastern part of the park, and it was actually worked during the last World War because of its importance. The Secretary of the Interior found some statute which gave him the right to give a lease on it, though it is inside the national park. And it has been worked out, practically all of the ore taken out of it, I believe.

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there were not many of these books available. I went to the University of California and also to the library in Sacramento, but found very few books that would give me an insight into what I wanted to know so I started collecting these books myself and carried this on all during the time that I was in Judge Lindley's office in the early days. I was very fortunate in the fact that I came in contact with Herbert Hoover, who afterwards became President of the United States.

Herbert Hoover was a great friend of Judge Lindley, becuase Judge Lindley gave a course of lectures on mining law at Stanford, which I did later on, long afterwards. I think I gave only one course of lectures.

Gilb: Lindley's was in 1909, wasn't it?

Colby: Yes. Judge Lindley's was rather early. And Hoover took this course with Judge Lindley, and later on, Judge Lindley I believe got him his first mining work, in Nevada County, Grass Valley, and put him in contact with some mining engineers that Judge Lindley knew very well. So that later on after Hoover had made his great fame as a mining engineer and came back to the United States from Australia, Africa, and China to California, he always looked up Judge Lindley, and

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finally Judge Lindley gave him an office while he was there visiting two or three months each year, as it was his custom. Hoover's main offices were in London, and that was used against him very strongly when he first gave evidence of running for the presidency of the United States, the fact that he was almost like an English citizen, instead of an American citizen, because he had transferred his main activities to his London office for some few years; but he had finished his great work of feeding the Belgians during the first world war. At the time he was given free access to both sides of the lines. He went behind the German lines and behind the French and English lines. They trusted him implicitly, but he carried that work of Belgian relief to such a degree of perfection he felt he could leave it. He could sense that the United States was bound to come into the war sooner or later. So he came over to the United States. And Judge Lindley introduced him to prominent officials in Washington, whom Judge Lindley knew. Franklin K. Lane, Secretary of the Interior, was one of them, and Judge Lindley had known President Wilson very slightly. He was a Democrat, as Wilson was. So he was able to get Hoover a very intimate intro-

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cing this law and could tell them about the cases I was trying gave them a special interest which was not true of most of the other members of the faculty because, though some of them had been practicing attorneys, they were not practicing at the time they were conducting those classes.

Gilb: I wanted to ask you about some of your memories as an instructor. You mentioned that you taught Earl Warren. Do you remember anything about him?

Colby: No, I don't. I did have -- preserved somewhere I think the record of all the students I had and their grades, and I've tried to look these up to see what grades some of these prominent men have had. Earl Warren was one of the important men that I had as a student. Horace Albright was another, who was for many years the director of National Parks, succeeding Stephen Mather, who was the great outstanding example of those directors, the first one under the National Park Service that I helped to create through the Sierra Club in the early days. And Newton Drury also took work the same year, I think, that Warren did and Horace Albright. The class of 1912, I think it was, about that time. They were in my class in 1911, because I can remember it.

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Gilb: Were your best students the ones who turned out to be most famous afterwards?

Colby: No, I wouldn't say that, though -- not invariably. I haven't followed that very closely. Some of the best students are outstanding, but I don't remember their names. Also a good many judges -- Annette Adams was one of my students, who became presiding judge of the District Court of Appeals in Sacramento. And I had the pleasure of arguing a mining case before her not very long ago, a few years ago. I think she's retired now, if I am not mistaken, but she continued in that court for a good many years. Also, another presiding judge is Peters, in the District Court of Appeals in San Francisco, a very able judge. And I also tried a case very early after his graduation -- an oil case down in Bakersfield -- before Judge Farmer who is now dead.

In 1937 I resigned from my lectureship at Boalt Hall with a great deal of regret, but I had been on the State Park Commission so long that it interfered with my work. My former wife had to take my place during the nine months that I was up in Nevada trying a case so that I felt that my life was a little too full to continue with that work. And in any event, mining law was

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in California and was successful in winning them all.

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Gilb: I wanted to ask also about your work as, or your hobby as, a collector of Chinese art.

Colby: Well, that is interesting. I very early became interested in Chinese art, and I used to go up in Chinatown and, as a great many others who were fond of Chinese art, walk up and down Grant Avenue and look in the windows and see these beautiful objects of art, which don't exist there today. They are a thing of the past, but in the early days they were there. And I bought some things that were of interest and I still have along those lines, a great green salad bowl, which has the eight immortals engraved on the inside. And then later on, when I became a little more flush as far as money was concerned, because of the important mining cases that I was associated in, I went up into Chinatown, and I was advised of an auction sale that was going to take place as a result of the depression; the entire stock of a company there was going to be sold, regardless of what was obtained for it. I became attracted for some reason to Chinese robes, and I secured

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there a very important Imperial robe that was worn by a member of the Imperial family. I drifted on from that, and I commenced to buy imperial robes and priest robes, also, until I acquired a collection of robes that was outstanding, not only in the United States, but in the world. The curator of the Far Eastern Arts, the Metropolitan Museum in New York, which has one of the outstanding collections of Chinese robes in the world, and textiles, passed on my collection, which I sold, finally. It became a white elephant, a herd of white elephants so far as I was concerned, because women's clubs particularly were anxious to have them shown, and I was just worn out carrying these silk robes which weigh like lead around in suitcases to these various organizations and showing them. I was always glad to do it, of course, but it was a little too much of a problem. The robes were so valuable that they -- I had to keep them in iron cases in San Francisco in my office. So, finally, I got hard hit financially in the depression, along with others, and I sold the collection to the Minneapolis Institute of Arts, in Minneapolis, Minnesota. And the curator of the far eastern art in the Metropolitan was called in to pass on these robes

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and to write an introduction to a very elaborate catalogue which they got out, explaining my robes. My robes were practically the only thing displayed at this exhibition. Later on, they were exhibited in the Metropolitan in New York in conjunction with other robes, but my robes were perhaps a quarter of all the robes collected from all over the United States, including the Metropolitan, showing their importance. And the curator, Alan Priest, who passed on these said that my collection was one of the greatest in the world, and one of the most important. So it gave me some compensation for having brought them together, because I sold them for about a quarter of what I paid for them, paid between $50,000 and $60,000 and sold them for $15,000. But this sale started me back again, recuperating my financial condition, because the depression and the war coming on did play havoc with my securities, for I was, as they say, overextended. But that got me back on the road to at least a moderate competence, which will probably carry on to the end of my life and enable me to pass something on to my present wife.

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12/a

ADDITIONAL QUESTIONS SUBMITTED TO WILLIAM E. COLBY,

NOVEMBER 14, 1953

1. What are your some present vocations? Do they share your interest in the Sierra Club?
2. How well do you think your legal education fitted you for practice of the law; looking back on it, in what ways do you think your legal education could have been better?
3. What was President Taft's attitude toward the Hetch Hetchy battle? [illegible] John Muir had much influence in him? Date of San Francisco's original application for the Hetch Hetchy site; date you first heard of San Francisco's efforts to get Hetch Hetchy?
4. What part did City Attorney Percy Vincent Long play in the Hetch Hetchy fight? Did you have any help from the Spring Valley Water Company?
5. Year of Ickes' special trip to San Francisco on Kings River problem?
6. Citation of Champion Mining Co. v. The Home Mining Co.?
7. Any work on the effects of the San Francisco fire? Any other problems besides those occasioned by loss of records? Any modifications in the practice of law to forestall legal problems which might arise from a similar disaster in the future?
8. Citation, Nevada Consolidated Mining Co. v. Nevada Consolidated Copper Mines?

APPENDIX

(ADDITIONAL QUESTIONS SUBMITTED TO WILLIAM E. COLBY, NOVEMBER 14, 1953)

1. What are your sons' present vocations? Do they share your interest in the Sierra Club?
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9. What year did you lecture at Stanford? Have you received an honorary degree? When and where?

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(Mills Tower, San Francisco)

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February 17, 1954

Mrs. Corinne L. Gilb
University of California
Bancroft Library
Manuscript Division
Berkeley, California

Dear Mrs. Gilb:

Answering the questions which you listed in your letter of November 14, I am adding the following to my "deep freeze".

My older son, Henry Vrooman Colby, is a practicing attorney here in San Francisco. He graduated from the University of California and then from the Harvard Law School. My former wife and I made it possible for him to take his law course at Harvard because we felt that some contact with the East would be beneficial, and I am quite sure that he has felt the same. He did not enter my office, as he had originally planned, and practice mining law, because by the time he graduated from Harvard Law School I realized that mining law was on the decline, and there is little call nowadays for specialization on the subject as there was when I first started

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to practice in 1898. This son, Henry, is very much interested in the out-of-doors, has a summer and week-end home at Inverness, Marin County, and has spent many of his summers with the Sierra Club on its main annual outings in the Sierra. He used to work under my direction when he was young in the commissary on these outings and became very much attached to the Sierra.

My son Gilbert Winslow Colby graduated from the University of California and from the Harvard Business Administration School. He also felt that it was a great advantage to come in contact with Eastern thought and considers the contacts he made in the East and the education he received at Harvard fitted him exceptionally well for the work that he is now doing as head of the Investment Department of the Wells Fargo Bank & Union Trust Co. here in San Francisco. He also has a place at Inverness, where my former wife and I took both the children for almost every week-end during the year, so that they could enjoy the out-of-doors and boating on Tomales Bay. He is quite interested in the out-of-doors but has not gone into the Sierra very much, though he also used to go with me on the Sierra Club outings and work in the commissary. I attribute this largely to the fact that his wife is not physically able to "rough it" in the mountains as is Henry's wife.

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Answering your third question. President Taft's attitude toward the Hetch Hetchy site was one that was more or less sympathetic to our viewpoint. Muir accompanied Taft into the Yosemite Valley by special request and had quite a chance to talk with the President on the subject, and Muir told me that Taft seemed to be sympathetic to our point of view, though undoubtedly politics had a great deal of influence with him.

Answering your query concerning San Francisco's original application for the Hetch Hetchy site. I have no present knowledge. It was sometime around the beginning of the century, and the idea of using Hetch Hetchy as a reservoir was first suggested by Lippincott, who was conducting a survey of the area for the United States Government. This was back in the early 90's, as I remember. It was around the beginning of the century that I first heard of San Francisco's effort to get Hetch Hetchy as a water supply.

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With reference to your request for a list of articles which I have prepared and which have been published, I find in my files copies of such lists, both conservation and legal, and also of the important cases in which I acted as counsel. I feel quite certain that I must have given you the original of each of these lists. If this is not the case, I will have them copied.

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IMPORTANT CASES IN WHICH WM. E. COLBY WAS COUNSEL

(As one of leading counsel in cases marked with 'X')

X Galbraith v. Shasta Iron Co., 143 Cal. 94; 76 Pac. 903.

X McElligott v. Krogh, 151 Cal. 132; 90 Pac. 823.

X Harper v. Hill, 159 Cal. 255; 113 Pac. 163.

Lightner M. Co. v. Lane, et al. 161 Cal. 689; 120 Pac. 771

X Emerson v. Kennedy M. Co., 169 Cal. 718.

Jim Butler M. Co. v. West End M. Co., 247 U.S. 450; aff'd 39 Nev. 375; 158 Pac. 876.

Utah Apex M. Co. v. Utah Consolidated, 277 Fed 41 (8CCA) 285 Fed. 249, 252; cert. denied 258 U.S. 619; 261 U.S. 617.

Tom Reed v. United Eastern, 24 Ariz. 269; 209 Pac. 283; cert denied 260 U. S. 744.

X Sixteen to One M. Co. v. Twenty-one M. Co.,254 Fed. 630; aff'd. 255 Fed. 658; aff'd 265 Fed. 547.

Round Mt. v. Round Mt. Sphinx M. Co., 129 Pac. 308; 138 Pac. 71.

X Northport M.C. v. Lone Pine Surprise M.Co. 271 Fed. 105; aff'd 278 Fed. 719.

X Moulton M. Co. v. Anaconda M. Co., 23 Fed. (2nd) 311; modifying 20 Fed. (2nd) 1008.

X Nevada Cons. M. Co.v. Cons. Coppermines, 44 Fed. (2nd) 192; 64 Fed. (2nd) 440; cert. denied 290 U. S. 664.

X Empire Co. v. Butler, 62 C.A. (2nd) 49.

X Ames v. Empire, 17 Cal. (2nd) 213.

X Robertson v. Alaska Juneau Gold M. Co., 61 Fed. Supp. 265, 157 Fed. (2nd) 876 (9 CCA), 331 U. S. 793, 331 U. S. 823.

X Empire v. Bullion, 99 Fed. (2nd) 228.

X Middle Fork G. M. Co. v. Green, 79 Cal. App. (2nd) 350.

X Cataract Gold M. Co., 43 Land Decisions 248.

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70 Nev. 377; 168 Pac. 1073.

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250 Fed. 808; aff'd 249 Fed. 647.

Round Mt. v. Round Mt. Gold M. Co., 129 Pac. 708; 159 Pac.

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