

Roosevel Utah.

Sept. 28, 1936.

T. H. Humpherys, State Engineer  
SLC

RE: INDIAN VS WHITE, WATER DISTRIBUTION

Dear Sir:

Yours of 5th ult. was gladly received because it refreshed my mind considerably regarding this old question. With a rather unique collection of literature etc. on this entire region, all destroyed in my home nearly four years ago, I acquired the habit of relying on data, and not of guessing. When writing without this I am, as my letter exhibited, merely guessing.

However your letter renews memories of the years here, as well as serving to brighten up my recollections of the subject at hand, and again I thank you.

Your letter illustrates, as often done before, the same old danger, that is it is "dangerous" as I see it, viz:

- 1- The act of congress, 1904, US statutes at large, Vol. 34-p. 374, acknowledging Utah's jurisdiction of the water on and for these Indian lands. That is good, especially in view of the Montana case.
- 2- You indicate satisfaction with present arrangements or methods because it appears that the white settlers rather prefer it compared with some other.

This is not exactly correct. In such matters the great majority really take no part. In this instance, of the 30 odd defendants in that suit, the Dry Gulch, because it was outstanding in size and supposed leadership, has played just about all the game for the white people. And the Dry Gulch is more manipulated by proxies than it is represented by owners. Positions of directors, plus the ditch-rider positions, cause resort to this poor excuse, and it has been worked so hard and so long that gradually the actual owners are conspicuous by their absence unless they are in some way interested as noted. It seems not difficult for a very few to manipulate matters. That is not uncommon, in our governmental affairs, all over, but it has been played too hard here, and a reversion, or an individualistic reverse, is showing signs now.

Of some 45,000 shares (acres) of water right outstanding five years ago there is more than 25% now bought in by the company in last eighteen months and likely more to come, and for the assessments. A \$10.00-per-share, face value certificate, is now almost without value. A reasonable amount of this retrenching in stock, because of marginal lands covered, is justified, but I believe the limit of this has now been reached.

- 3- I made the gross error of stating that federal court decree did not demand a water commissioner under the court's direction. Thank you for setting me right on this, but again it was memory vs no ready file. I well remember this issue, and have heard it discussed many times. Good attorneys have advised me that Judge Johnson's stand on that phase would be reversed because of the congressional act.

- 4- Now, after this clarification, permit me to again emphasize the principal cause of my writing you, the real question in my mind, viz:

Despit act of congress it seems to me the law of estoppel runs just the same??? After 20-yrs. of continuous use of a supposed right, not contested or opposed in court, from my recollection of the law, this becomes permanent? On this basis I doubt that we may rebut the Indian's right?

16

This holds on state and on county boundaries, on assessments even quite unreasonable at times, etc. I fear that, if for twenty years we accept this US district court decree as the law we, thereby, make it law, even despite the act of congress referred to.

This fear prompts this letter. I hope my idea is wrong? When one reads law four or five long years, in the old fashion way in a law office, and specializes in international law, as I did 30-yrs. ago, the "outlines" remain, in substance, impressed on the mind. I got a fair library up in the Big Horn, but life seemed to detract, and to otherwise direct me, and I sold my books and returned to Utah.

But the kernel in the nut is this power of estoppel running against us. This estoppel is a powerful force in law, although recognized by statutes only here and there, and often known as the unwritten law.

In conclusion:

Is it not the bouden duty, the sacred duty (if anything in our democratic system bears that stress) for state officials to guard and to watch just such dangers as this? I am an American in spirit as well as by birth and force of life's environment. Popular carelessness is a badge a democracy seems to play as a banner of disinterest, and yet, to me, it is only an emblem of TRUST in THEIR GOVERNMENT, in OUR government, and by this we mean we are right, we know we are right, and we trust our public servants. Thus, in the Uintah Basin, the same old weakness which much of Europe nows abjures by selecting rather ancient schemes, is very apparent.

But should we be less alert if the people appear satisfied? My life has been spent among the people, as servant, teacher, country lawyer, editor, and in harsh and cold-blooded business. The dear people and I are not strangers. Human carelessness is common among all our acts, almost as bad in government as out of it. So I ask, and trust you may favor me in this:

Please have the attorney general give this special attention. Truly, I hope my apprehension is unfounded.

Thanking you kindly for your good letters, I am

Respectfully

J. P. May, Roosevelt, Utah.



mailed Oct. 11, '36



Envelope

mailed Nov. 5, '36

