

John W. Judd Letter

John W. Judd,
Attorney at Law,
U.S. Attorney for Utah,
Rooms 105-106-107 Commercial Block,

Salt Lake City, Utah, Feb. 4, 1896.

Hon. Jabez G. Southerland,

Salt Lake City, Utah.

My dear Judge:-Concerning the question which you put to me asking why I hesitated to dismiss the indictment against Higbee during the time I was U.S. Attorney, I beg to reply that when I was first appointed U.S. Attorney for Utah, I took personal charge of the Second District where the indictment was pending and made every effort I could to thoroughly investigate the particulars of the unfortunate massacre at Mountain Meadows with a view to discharge whatever official duty with reference thereto which my position imposed upon me.

I talked with many of the prominent people of that section of Utah and I read the history of the trial of Lee as found in his autobiography, and I came to the conclusion in the first place that any attempt on my part to continue the prosecution against Higbee and others, would in all probability be abortive on account of lack of testimony, which in its turn resulted largely from so great a lapse of time. I came to the conclusion that any attempt to try the case would simply result in harrowing up old sores not only in Utah, but that it would be published probably all over the United States and that nothing could result, except probably to leave us in a worse fix than we were.

Moreover a generation had passed and there were mothers and fathers living in that section of the State who had been born since the massacre in 1857, and I felt that it could accomplish no good purpose to spread anew the disgusting and heart-rending details of that affair in view of, and to be read and re-read by a generation of people who knew nothing of it, and who ought to know nothing of it. When application was made to me to dismiss the case against Higbee my hesitation to do that was attributable to a doubt in my mind as to whether that man ought to be allowed to go back into the community and become a parcel of it

I was afraid that his very presence there would have the effect of tearing open the old sores of the past and excite renewed discussion, and to effect, in part at least, some if not all of the evils that a re-hash ~~ix~~ of the matter in court would effect. I talked the matter over with the best citizens and while they for the most part insisted that Higbee himself was not really a guilty party, that whatever he did he did it under the pressure of absolute compulsion, they insisted that this was ~~ix~~ largely understood by the community, and that his presence there would not be offensive. Still the doubt in my mind upon that subject was so strong that I did not feel that I ought to be the instrument in opening the way for him to go back; but I do not hesitate to say that the dismissal of the case is infinitely preferable to any trial of it. For the reasons heretofore stated I think a trial would do no good and it would upturn the community, cause a re-hash of what took place nearly forty years ago in the public print of the Territory and probably of the whole United States, and finally result in an acquittal.

I hope this will be satisfactory to you and will serve your purpose. I have tried in my feeble way to state the matter so far as I am concerned exactly as I felt it. The prosecution ought to be dropped.

I am, with great respect,
Dict. "A". Your obedient servant,

(Signed) J.W. Judd.

show this letter to ~~some~~ ~~in~~ ~~the~~ ~~also~~ ~~George~~ ~~Judd's~~ ~~letter~~.
Higbee was never guilty as I know from talking personally with him, but the way things were then would have been a fair trial. His idea is that Higbee is entitled to have a trial and to be personally vindicated by an acquittal.

As his age and the friends of the accused are content with a dismissal, that order ought to be made.

Yours very truly,

(Signed) J.W. Judd.