Insurance, Hail. Hail and Crop Insurance, Alfalfa Not a Grain.

Alfalfa is not a grain within the meaning of the law authorizing mutual hail and fire insurance companies.

March 15th, 1913.

Mr. F. M. Lamp,
Big Timber, Montana.

Dear Sir:

I am in receipt of your letter of the 7th inst., submitting the question:

> "May alfalfa properly be included as a part of the five thousand acres of grain named in Sec. 4076, R. C., relating to

the incorporation of mutual hail and fire insurance companies?"

The language of the section is: "Not less than five thousand acres of grain." Whether the statute was at the time of its enactment too narrow in its terms or whether conditions have arisen since that time to render an enlargement of its provisions desirable, are questions wholly of legislative concern, with which we cannot deal. We are bound by the statute as it is, not as it should be. The term "grain" has a very well defined meaning in common use and that meaning does not include grasses or plants whose chief and perhaps only value is for use as hay. Sec. 15 of the Revised Codes provides:

> "Words and phrases are construed according to the text and the approved usage of the language."

There is nothing in the context in this section that would give to the word "grain" any other than the common meaning. That common meaning is:

> "The fruits of certain plants which constitute the food of man or beast."
>
> 20 Cyc. 1288.

Some of the cases held that broom corn, millet hay, peas and sugar cane seed may be classed as grain, but an examination of these cases discloses the fact that there is always some language used either in the statute or the contract being construed which broadens the ordinary meaning of the word "grain," which lead the court to give to the term such extended meaning. Botanically alfalfa would not be classed with wheat, oats, rye, barley or any other of the common grain producing plants. However, the statute is very restrictive in its terms, and I am therefore forced to the conclusion that alfalfa is not included within the meaning of the term "grain" as the same is used in the statute.

Very truly yours,

D. M. KELLY,
Attorney General.