Opinion No. 200.

Taxation—Grain, Stored in Elevators —Elevators.

HELD: Grain, held in and owned by a grain elevator, should be taxed on a basis of 7% of its true and full value.

November 9, 1935.

Mr. H. H. Hullinger
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You have submitted the question as to what basis of value shall be taken for levying taxes on grain held in and owned by an elevator. The assessor has classified the grain for purposes of taxation at the rate of 33⅓% of its true and full value on the theory that Chapter 191, Laws of 1933 applies only to agricultural products held in storage by farmers.

Section 1, Chapter 191, Laws of 1933, provides: "As a basis for the imposition of taxes upon agricultural products in storage or held on the farm, and all livestock actually held on feed for purposes of slaughter and sold and removed from the county on or before the fifteenth day of April of the year in which the tax levy is made, seven per centum (7%) of the true and full value shall be taken."

If it was the intention of the legislature to have this section apply only to grain held in storage by farmers, that intention was not expressed in the Act. It is, of course, elementary that the intention of the legislature is to be obtained primarily from the language used in the statute. Great Northern Utilities Co. v. Public Service Comm., 293 Pac. 294; McNair v. School Dist. No. 1 of Cascade County, 288 Pac. 188, 87 Mont. 423; 69 A. L. R. 866; State v. Hays, 282 Pac. 32, 86 Mont. 58; State v. Board of Com'rs of Big Horn County, 250 Pac. 606, 77 Mont. 316; Morrison v. Farmers, Etc., Bank, 225 Pac. 123, 70 Mont. 146; Swords v. Simineo, 216 Pac. 806, 68 Mont. 164; State v. Walker, 210 Pac. 90, 64 Mont. 215.

Where the language of the statute is plain and unambiguous there is no occasion for construction. The court cannot indulge in speculation as to what the legislature had in mind but must give effect to a statute according to its plain and obvious meaning. Melzner v. Northern Pac. Ry. Co., 127 Pac. 146, 46 Mont. 162; United Missouri River Power Co. v. Wisconsin Bridge & Iron Co., 119 Pac. 796, 44 Mont. 343; Osterholm v. Boston & Montana Consol. Copper & Silver Mining Co., 107 Pac. 499, 40 Mont. 508.

Moreover, we would question the constitutionality of an Act if it had provided that grain held in storage by a farmer should be assessed on the basis of 7% of its value, while grain held in storage by an elevator company should be assessed on the basis of 33⅓% of its value. We are inclined to the opinion that such inequality in taxation would violate both the state and federal constitutions.

In view of the plain and clear meaning of the statute no question of construction is involved but if there were, we should be obliged to give it that construction if reasonably possible, which would render it valid and constitutional. (12 C. J. 788, Section 220.)

We are, therefore, of the opinion that the basis for the imposition of taxes on the grain in question should be 7% of its true and full value in accordance with said Chapter 191.