

Senate Bill No. 10, Constitutionality Of. Mortgages, Tax Upon Under Senate Bill, No. 10. Tax, Upon Mortgages by Senate Bill No. 10.

Senate Bill, No. 10 is unconstitutional as being a violation of Section 1, Art. XII, of the Constitution of the State of Montana for the reason that the rate of assessment and taxation therein provided for is not uniform and that said bill does not provide for equal application of the law, and for the further reason that said bill is retroactive.

March 7th, 1911.

Hon. Edwin L. Norris,
Governor,
Helena, Montana.

Dear Sir:

Beg to acknowledge receipt of your letter of the 6th inst; submitting to me senate bill No. 10, wherein you submit for my opinion the following question:

"Please inform me if the provisions of this bill are in accordance with the provisions of the constitution of Montana relating to taxation."

After careful examination of the provisions of this bill it is my opinion that the same is in violation of the provisions of Section 1, Article XII, of the constitution of Montana, for the reasons that by the provisions of Sections III and VI of said bill there is provided a rate of assessment and taxation which is not uniform; wherein it is provided that certain evidences of debt secured by mortgage upon real estate is liable only to the payment of a tax of fifty cents upon each hundred dollars of said tax which is equivalent to a five mill tax; whereas other evidences of debt which are not secured by a real estate mortgage would be liable to the payment of the usual rate of taxation which would mean between twenty and thirty mills:

Further, that the provisions of said bill do not provide for an equal application of the law and for the further reason that by virtue of the provisions of Section VIII of said bill making it optional with the holders of real mortgage recorded or registered prior to July 1st, 1910 to pay the taxes therein provided, said bill is in my opinion retroactive.

Yours very truly,

ALBERT J. GALEN,
Attorney General.