

**Public Warehouseman—Warehouse Receipts — Grain—
Storage.**

A public warehouseman must deliver the grain to the farmer upon delivery of the storage receipts, or pay for the same, and may not deduct a store bill owing by the farmer to the warehouseman.

Mark Derr, Esq.,
County Attorney,
Polson, Montana.

My dear Mr. Derr:

You have requested my opinion as to the extent of the authority of an owner of a public warehouse over grain stored in such warehouse. The facts stated are substantially as follows:

A farmer hauled his wheat to the elevator last fall for storage, the grain being free from incumbrance; the warehouseman issued no storage ticket but simply delivery slips showing the quantity of grain delivered for storage; the farmer has now given the bank a bill of sale of the grain to secure the bank for a loan made him, and upon an attempt by the bank to sell the grain the warehouseman refuses to either deliver the grain to the bank or to pay the bank in full for the same, but insists that he will deduct a store bill which is due him from the farmer, to which the bank refuses to assent.

Section 3574, Revised Codes of 1921, makes every elevator receiving grain for storage a "public warehouse," and every person operating or controlling such an elevator a "public warehouseman."

Section 3586 requires every public warehouseman, immediately upon receiving grain for storage, to issue and deliver to the owner a warehouse receipt, in form prescribed by law and the regulations of the Commissioner of Agriculture, while Section 3588 provides for methods of settlement upon the return of the receipt.

Under these statutory provisions, it was the duty of the warehouseman, upon receiving the grain for storage, to immediately deliver to the owner a warehouse receipt, in proper form, and whenever such receipt should be returned to him properly endorsed, to either deliver grain of a like grade, quality and quantity to the holder thereof, less charges for storage and freight, or pay such holder the value thereof less storage charges and freight charges to terminal. Having neglected to perform the duties imposed upon him by law by failing to give the farmer the proper storage receipts, the delivery receipts should be treated and considered as storage receipts, and, on delivery of such delivery receipts, the warehouseman must either deliver the grain or pay for the same. He may deduct such charges as are proper for the storage of the grain or for any freight he may pay thereon, but he has no right to deduct any amount for any other debt owing to him by the farmer who placed the grain in the warehouse for storage.

It is, therefore, my opinion that a public warehouseman has no authority to deduct a store bill owing by the farmer to the warehouseman upon a surrender of the storage receipts.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.