

No. 457

**AGRICULTURE—GRAIN—WAREHOUSEMEN—
ELEVATORS**

Held: Under the provisions of Section 3586, Revised Codes of Montana, 1935, a licensed warehouseman cannot reserve storage space in his grain elevator for a patron and refuse to accept storage from others. Statute clear and specific. Public warehousemen shall receive for storage and shipment without discrimination of any kind, so far as the capacity of his warehouse will permit, all grain tendered him in the usual course of business in suitable conditions for storage.

July 30, 1942.

Mr. Albert H. Kruse
Commissioner of Agriculture, Labor and Industry
State Capitol
Helena, Montana

Dear Mr. Kruse:

You have submitted the following problem to this office:

"I would appreciate it very much if you would furnish me with an opinion whether a licensed warehouseman can reserve storage space in his grain elevator for a patron and refuse to accept grain for storage from others and later receive grain from the patron for whom he had reserved space."

Section 3586, Revised Codes of Montana, 1935, provides as follows:

"Every public warehouseman shall receive for storage and shipment without discrimination of any kind, so far as the capacity of his warehouse will permit, all grain tendered him in the usual course of business in suitable conditions for storage. A warehouse receipt,

in form prescribed by law and the rules and regulations of the commissioner of agriculture, shall be issued and delivered to the owner, or his representative, immediately upon receipt of such load or parcel of grain." (Emphasis mine.)

Webster's New International Dictionary, 2nd Edition, 1941, defines the word "discrimination" as follows:

"To make a difference in treatment, or favor (of one as compared with others); as, to discriminate in favor of one's friends; to discriminate against a special class."

The Montana Supreme Court has used the following language in speaking of statutes which are clear and specific:

"When the terms of a statute are plain, unambiguous, true and certain it speaks for itself, and there is nothing for the court to contrive. (Chmielewska v. Butte and Superior Min. Co., 81 Mont. 36, 261 Pac. 616.)"

State ex rel. Public Service Commission of Montana v. Brannon, 86 Mont. 200, 209, 283 Pac. 202, 206.

See also: Great Northern Utilities Co. v. Public Service Commission, 88 Mont. 180, 206, 293 Pac. 294, 299; Murray Hospital v. Angrove, 92 Mont. 101, 118, 10 Pac. (2nd) 577, 584; State ex rel. DuFresne v. Leslie, 100 Mont. 449, 457, 50 Pac. (2nd) 959, 963.

It is therefore my opinion that, under the provisions of Section 3586, Revised Codes of Montana, 1935, a licensed public warehouseman cannot reserve storage space in his grain elevator for a patron and refuse to accept storage from others.

Sincerely yours,

HOWARD M. GULLICKSON
Attorney General