

Opinion No. 12**Statutory Construction—Yellowstone River Compact—Carey Land Act.**

Held: Under House Bill No. 449 the 31st Legislative Assembly has indicated that the appropriation for the Yellowstone River Compact shall be paid from the Carey Land Act fund.

April 11th, 1949.

Mr. John Norman Matthews
State Accountant
Capitol Building
Helena, Montana

Dear Mr. Matthews:

You have submitted the following question for my opinion:

"Should the \$2,500.00 appropriation for the Yellowstone River Compact be paid from the Carey Land Act fund or the general fund?"

House Bill No. 449 of the 31st Legislative Assembly, which is the general appropriation bill, provides in part as follows:

"Carey Land Act

From the General Fund (to supplement Carey Land Act Fund) for salaries and expenses, eight thousand six hundred fifty-five dollars . . . \$8,655.00.

From the Carey Land Act Fund

In addition, all revenue received or to be received, is hereby appropriated for the purpose for which the fund is established.

For necessary expense of Yellowstone River Compact, \$2,500.00.

Water Conservation Board

From the General Fund. . . ."

It is clear from reading the above portion of House Bill No. 449 that the words and meaning are plain and free from any ambiguity.

The rule as stated in 25 R.C.L. 213, p. 957 (Statutes) is as follows:

"A statute is not to be read as if open to construction as a matter of course. It is only in the case of ambiguous statutes of uncertain meaning that the rules of construction can have any application. Where the language of a statute is plain and unambiguous and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself. When the meaning of a law is evident, to go elsewhere in search of conjecture in order to restrict or extend the act would be an attempt to elude it, a method which, if once admitted, would be exceedingly dangerous, for

there would be no law, however definite and precise in its language, which might not by interpretation be rendered useless. In such a case arguments from the reason, spirit or purpose of the legislature, from the history or analogy for the purpose of searching out and justifying the interpolation into the statute of new terms, and for the accomplishment of purposes which the lawmaking power did not express, are worse than futile, they serve only to raise doubt and uncertainty where none exists, to confuse and mislead the judgment and to pervert the statute."

In 25 R.C.L., Section 218, p. 963, it is stated that:

"No motive, purpose or interest can be imputed to the legislature in the enactment of a law other than such as are apparent upon the face and to be gathered from the terms of the law itself. A secret intention of the lawmaking body cannot be legally interpreted into a statute which is plain and unambiguous, and which does not express or imply it."

The Montana Supreme Court, in *State ex rel. Palagi v. Regan, County Clerk*, 113 Mont. 343, p. 350, 126 Pac. (2d) 818, stated the rule as follows:

" . . . a supposed unexpressed intent in enacting the statute cannot override the clear impact of the language employed."

In *Green v. City of Roundup*, 117 Mont. 249, p. 252, 157 Pac. (2d) 1010, the Montana Supreme Court held:

"Where the terms of a statute are plain, unambiguous, direct and certain, the statute speaks for itself, there is naught for the court to construe (*Chmielewska v. Butte & Superior Mining Co.*, 81 Mont. 36, 261 Pac. 616)."

It is my opinion that House Bill No. 449 is clear and unambiguous and under the above bill the 31st Legislature has indicated that the appropriations for the Yellowstone River Compact shall be paid from the Carey Land Act Fund.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.