

Opinion No. 323.

Insurance — Countersigning Act—Ex-
ceptions Thereto—Statutes—
Construction and Inter-
pretation.

HELD: 1. In an apparent conflict between the title and the body of an act, it is the wording of the body that is controlling.

2. Only rolling stock of railroads is excepted from the provisions of Chapter 95, Laws of 1937.

August 12, 1938.

Honorable John J. Holmes
State Auditor and ex-Officio
Commissioner of Insurance
Capitol Building

Dear Sir:

You have called attention to the conflict between the title of Chapter 95, Laws of 1937, and the Act itself. The title reads:

“* * * Excepting herefrom rolling stock of railroad corporations and

other common carriers and property in transit. * * *” The Act itself provides:

“Section 2. Exceptions. No provision of this act is intended to, nor shall it, apply to direct insurance covering the rolling stock of railroad corporations or property in transit while in the possession and custody of railroad corporations or ‘other common carriers.’”

You have asked if the act only exempts the rolling stock of railroad corporations, or if the further exception implied in the title of “other common carriers” must be made.

The rule is well settled in this state that in interpreting statutes the title, while a part of the act, cannot add to or extend the operation of the act. In *State ex rel Jones v. Erickson*, 75 Mont. 429, the court said, at page 453: “While the title to the measure might be said to be more comprehensive than the body thereof, it is the wording of the body and not that of the title which controls.” (See also 59 C. J., Statutes, Sec. 599.)

Hence it is my opinion that the body of Chapter 95, Laws of 1937, is controlling, and only rolling stock of railroad corporations is exempted.