

ture itself, if clarification is needed, it seems to me that the language "State institutions" or "all the State institutions" must be held to include the universities referred to in your letter.

**STATE FIRE MARSHAL: Outdoor Moving Picture Shows:
Application of Chapter 83 of the Acts of 1937 to such shows.**

July 10, 1941.

Mr. Clem Smith,
State Fire Marshal,
Fire Marshal Department,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of the 1st. inst., requesting my opinion as to the necessity of a permit for the operation of outdoor moving picture shows under the provisions of Chapter 83, Acts of 1937.

The pertinent facts recited in your letter are as follows:

The operation of moving pictures and displays outdoors, the only equipment being a portable projector and a screen;

Admission fees are not charged in most instances;

A small charge for a seat upon benches provided is sometimes charged;

Operator's profit is derived in most instances from local merchants.

A more accurate statement of your question seems to me to be:

Are the above facts sufficient to bring the operators of these machines under these conditions within the purview of Chapter 83, Acts of 1937, *supra*, so as to require a permit therefor?

The answer to your question depends upon the interpretation of said act.

Heretofore, under date of August 5, 1937, the Attorney General rendered an official opinion involving the interpreta-

tion of this act (see Opinions of the Attorney General, 1937, p. 456), only in that instance the inquiry was confined to carnivals operating under tents and exhibitions given in school houses.

I am in accord with the opinion therein rendered and with the statement therein made that where there is an apparent conflict in the provisions of a statute, the specific provisions take precedence over the general provisions of the act. This principle seems to me to be particularly pertinent to the inquiry here in view of the fact that Section 1 of the act above referred to employs the following language, to-wit:

“That on and after the first day of July, 1937, it shall be unlawful for any person, firm or corporation to operate any moving picture show, dance hall, cabaret, night club, or any other place of public amusement or entertainment in any building, theatre or hall to which the public is admitted, or to operate any other place of public entertainment or amusement within the state, unless, etc.”

The language “or to operate any other place of public entertainment or amusement within the state” would in itself be broad enough to cover outdoor moving picture exhibitions and displays unless by further provisions of said act said language is narrowed and limited to more restricted operations.

The reading of the entire act leads to the belief that it was the intention of the Legislature to provide for regulation and inspection of structures and buildings where people congregate and assemble for entertainment and amusement and where, as a consequence, added precautions against fire and other hazards would be demanded. The safeguarding of the public against such hazard is undoubtedly the aim and purpose of this act and it is not the show, the exhibition, or the entertainment that is to be supervised and regulated but the *places* wherein they are given.

And places, it seems to me, as used herein, are such that have a fixed location and provide shelter and facilities to the public.

Section 3 of the act narrows the construction to be placed on the language “or any other place of public amusement” as used in Section 1 of the act. Section 3 provides:

“Except as herein otherwise provided no *building* to which the public is admitted and no audience room in which exhibitions or entertainments are given shall hereafter be open to the public unless such building, place or room is operating in full compliance with the requirements of this act, and the rules and regulations of the State Fire Marshal applying to such buildings, places or rooms and unless such building, place or room has been approved as herein provided.”

The inhibition against admittance to such places until this act is complied with is against buildings and audience rooms in which exhibitions and entertainments are given. The word “place” appears again in this Section 3 but it seems to me to have been used in apposition to the words “building” and “room” as used therein.

Section 4 classifies permits, the kind and type thereof and the fees therefor and are made to depend upon

- (a) The size and capacity of theatres, opera houses and moving picture shows operated in any building or part thereof;
- (b) Theatres, opera houses and moving picture shows operated in any building or part thereof and of lesser seating capacity than those designated in Section 4 (a);
- (c) Excludes from the provisions of the act certain designated places of assembly, amusement or entertainment, but
- (d) Makes those enumerated in Section 4 (c) subject to supervision and inspection of the State Fire Marshal and the issuance of a permit without charge.

Certainly outdoor moving picture shows to which no admission is charged, which have no fixed seating capacity and which are not located in a building or a part thereof are not within the classifications provided for in Section 4 (a) and (b).

Nor do Sections 4 (c) and (d) taken together classify or designate outdoor picture exhibitions and displays.

With the exception of shows and carnivals operating under tents, the act seems to me to be directed to places wherein such exhibitions and entertainments are given having a permanent and fixed location, providing shelter and facilities to the public, structures and buildings capable of being examined and inspected for the discovery of fire and other hazards inimical to the safety of the public.

Because of the impossibility of classifying outdoor moving picture exhibitions within any of the permit classifications and the attendant impossibility of issuing any kind of a permit therefore, under the act, it is my conclusion that outdoor moving picture shows are clearly without the purview of the act and were not intended by the Legislature to be covered by it. They are temporary and transient. There is no structure or building of any kind in which the exhibitions are given for the State Fire Marshal to inspect.

It is, accordingly, my opinion that such shows and exhibitions are not within the purview of Chapter 83, Acts of 1937.

AUDITOR OF STATE: Industrial Board, status of such Board in view of the repeal of Sections 50 and 51 of the Workmen's Compensation Act of 1929.

July 12, 1941.

Hon. Richard T. James,
Auditor, State of Indiana,
Indianapolis, Indiana.

Dear Mr. James:

I have before me your letter requesting an official opinion with respect to what now constitutes the industrial Board provided for in Chapter 34 of the Acts of 1937, in view of the provisions of Chapter 40 of the Acts of 1941.

Chapter 40 of the Acts of 1941 is entitled "An Act to repeal certain laws and parts of laws concerning the administrative affairs of the State of Indiana; and declaring an emergency." Section 1 of this Act provides:

"That there are hereby repealed each of the following designated Acts and parts of Acts" (hereafter is contained language describing the Acts referred to by Chapter number, the session at which they were enacted, and the date of approval.)