Device: "An emblematic design."

Erection: "To set up or establish; to found; form, institute."

Twenty-one Corpus Juris, 819, defines erection as:

"To establish; to institute; to found, form, frame, etc.

Port Huron, etc. R. Co. v. Richards, 90 Mich. 577, 579, 51 N. W. 680.

Construing the statute in the light of these definitions, it is my opinion that a "car card" is a "display sign" and/or "placard" for the purpose of advertising. That when it is placed within view in a street car, trackless trolley or bus, it is "erected" within the meaning of the statute, and that such advertising is in contravention of the statute.

It necessarily follows that the answer to your second question; namely, whether or not photographs may be used on such cards, is in the negative.

FIRE MARSHAL, STATE: Public shows and entertainment, inspection and regulation by Fire Marshal.

August 20, 1937.

Hon. Clem Smith,
State Fire Marshal,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of August 12, 1937, wherein you inquire about the powers of your office as follows:

"I wish to have an opinion concerning the powers and duties of the State Fire Marshal Department under chapter 83 of the Acts of 1937, concerning so called free motion picture shows, which operate on public streets, lots, etc.

"Also I wish to be informed as to what classification this particular type of show is to come under, whether Class A, B or C. I would also like to know whether or not these particular shows are subject to the same penalties as prescribed by law for legitimate theatres."

Your first question inquiring as to the power of your department to inspect and regulate free motion picture shows which operate on public streets and vacant lots, cannot be answered by a reference to a specific provision of the Act, but the question remains whether such amusements come under the general scope or purview of the Act. In determining whether such shows do come within the terms of the Act the intent of the legislature to include them will prevail. In ascertaining legislative intent of the scope of an Act the statement of the purpose of the Act as expressed by the Act in its entirety will prevail. In determining the scope and purpose of the Act in question the italicized portions of the title and the following sections are, in my opinion, an adequate expression of the legislative intent.

> "An Act to regulate and restrict the operation of moving picture shows, theatres, dance halls, night clubs, cabarets, assembly halls and other places of public amusement and entertainment to provide for the inspection of and to place the supervision of such moving picture shows, theatres, dance halls, night clubs, cabarets, assembly halls and other places of public amusement under the office of the State Fire Marshal, and prescribing penalties for the violation thereof.
>
> "Section 1. Be it enacted by the General Assembly of the State of Indiana, 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 the owner, lessee, occupant or agent of such building, theatre, hall *or place of amusement* or entertainment has the approval of the State Fire Marshal to use such building, hall *or place for such purpose,* and has been granted a permit, as herein provided. All inspections made by the State Fire Marshal by virtue of the provisions of this Act shall be made in strict compliance with the provisions of this Act and all of such buildings, halls, theatres and other *places shall conform with the rules and regulations of the State Fire Marshal.*

"Section 2. Any person, firm or corporation desiring to operate any *moving picture show,* dance hall, cabaret, night club, with stage or floor show, theatre, hall or other place of public amusement or assembly, where entertainment is given, shall apply for a permit so to do, to the State Fire Marshal.

"Section 9. It shall be the duty of the State Fire Marshal to enforce the provisions of this Act and to inspect and examine all *moving picture shows, theatres,* dance halls, night clubs, cabarets, assembly halls and all other places of public amusement within the state annually." * * *.

"Section 10. No film distributing agency or booking agency shall supply or deliver films or entertainment for exhibition purposes to any *premises* in the State of Indiana unless such premises have been inspected and approved and unless the owner, manager or lessee thereof is in possession of a permit authorizing the exhibition of moving pictures. *No motion picture machine shall be operated upon a public street or on an open space less than one hundred feet distant from any building, unless non-inflammable film is used, then the distances shall be twenty-five feet.*"

In reading the foregoing sections together with the title, it is clear that the legislative intent was to include all motion picture shows, whether in a building or not. If such were not the case the term "motion picture theatre" would have sufficed. Section 1 is very broad in its provisions, including "motion picture shows," not limited to theatre, and "any other place of public amusement." This latter classification is broad enough to include any public entertainment wherein there is a danger from the perils of fire, i.e., loss of life or property due to fire or panic. This intent is likewise expressed in sections 2 and 9 by the italicized portions. Further, in section 10 it is settled beyond a doubt that the Act covers out-door shows by the provision against hazardous operation of the same. This section recognizes the danger to which surrounding buildings may be subjected by the unregulated operation of motion picture shows in streets or lots. Therefore, in view of the foregoing, I am of the opinion that such shows, though not specifically listed by name in the Act, are within the scope of the Act and

subject to your regulation in compliance with other provisions of the Act.

The answer to your first question in the affirmative will necessitate a decision of whether such shows can be considered as Class A, B or C. Since the language of the Act which determines Classes A and B is specifically restricted to entertainments operated in buildings and having a certain minimum square foot floor area, such shows must be included in the remaining Class C. Though no specific mention is made of this type of entertainment in Class C, the entertainments enumerated therein more nearly approximate such shows. It having been determined above that it was the legislative intent to include such outdoor shows within the purview of the Act, the application of words used in the latter classification may be enlarged to bring the operation of the law within the intention of the legislature. It therefore follows that such shows are subject to the discretionary regulation of Class C amusements as provided in the Act.

The answer to your last question is, of course, apparent in view of the foregoing. In my opinion such shows are subject to regulation as Class C amusements and it follows that they are subject to the penalties applicable to that class of entertainment for failure to comply with the provisions of the Act.

TAX COMMISSIONERS, STATE BOARD OF: Bridge bonds, whether surplus gasoline tax funds may be used to pay same.

August 21, 1937.

Hon. C. R. Benjamin,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of August 18, 1937, reading in part as follows:

> "This board is affirming an appropriation of $88,-000.00 made by the Carroll County Council. Bonds are to be sold to raise the money. The money is to be used to build a bridge across the Wabash river."