

In the case of *Shaffer vs. United States*, 24 Appeal Cases, D. C., at page 426, the court says:

"In other words, that the government had no right to photograph the accused while holding him in custody for the purpose of using that photograph to have him identified at the trial. This objection is founded upon the theory that the use of the photograph so obtained is in violation of the principle that a party cannot be required to testify against himself, or to furnish evidence to be so used. But we think there is no foundation for this objection. In taking and using the photographic pictures there was no violation of any constitutional right. There is no pretense that there was any excessive force or illegal duress employed by the officer in taking the picture. We know that it is the daily practice of the police officers and detectives of crime to use photographic pictures for the discovery and identification of criminals, and that, without such means, many criminals would escape detection or identification. It could as well be contended that a prisoner could lawfully refuse to allow himself to be seen, while in prison, by a witness brought to identify him, or that he could rightfully refuse to uncover himself, or to remove a mark, in court, to enable witnesses to identify him as the party accused as that he could rightfully refuse to allow an officer, in whose custody he remained, to set an instrument and take his likeness for purposes of proof and identification. It is one of the usual means employed in the police service of the country, and it would be matter of regret to have its use unduly restricted upon any fanciful theory or constitutional privilege."

Answering your inquiry specifically, I am of the opinion that Sections 1841-13 to 1841-21, inclusive, of the General Code, do not confer any right upon the sheriffs of the several counties of the state, chiefs of police of cities and marshals of villages, to take finger prints before arrest of a person suspected of committing a crime. However, officers have the right, generally, to subject persons whom they have reasonable grounds to believe have committed a felony, to a compulsory physical examination, which includes the taking of finer prints for the purpose of ascertaining their identity.

Respectfully,

GILBERT BETTMAN,

Attorney General.

498.

DISTRICT BOARD OF HEALTH—WHEN PURCHASE OF MOTOR VEHICLE FOR HEALTH COMMISSIONER AUTHORIZED.

SYLLABUS:

A district board of health may purchase a motor vehicle for the use of the district health commissioner of such district when conditions are such that the successful, economical and efficient performance of the board's duties which are expressly imposed by statute may require such a purchase. Affirming Opinion No. 2995, Opinions of Attorney General, 1925, p. 761.

COLUMBUS, OHIO, June 10, 1929.

HON. L. M. SOLIDAY, *Prosecuting Attorney, Zanesville, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"The Board of Health of Muskingum County, Ohio, has requested an

opinion from me as to whether or not the said Board of Health is authorized to purchase a motor vehicle for the County Health Commissioner or District Health Commissioner for her official use.

Will you kindly submit an opinion on this question?"

The question which you submit was considered and passed upon by this department in an opinion, found in Opinions of the Attorney General for 1925, page 761, the syllabus of which is as follows:

"There is no express authority authorizing a district board of health to purchase an automobile for the use of its employees. However, where conditions are such that the successful, economical and efficient performance of the board's duties, which are expressly imposed by statute, requires such a purchase, the authority is reasonably implied. Whether or not such a condition exists is a question of fact to be determined in each case, in the discretion of the board."

I concur in the views expressed in the above opinion by the then Attorney General and therefore refer you to the discussion of the question as contained therein. In the event that you have not available the bound volume of the Opinions of the Attorney General for 1925, I enclose herewith an office copy of the opinion referred to above.

Respectfully,

GILBERT BETTMAN,
Attorney General.

499.

APPROVAL, BONDS OF NEWTON FALLS CONSOLIDATED SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$100,000.00.

COLUMBUS, OHIO, June 10, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

500.

DISAPPROVAL, NOTES OF SHARON RURAL SCHOOL DISTRICT, NOBLE COUNTY, OHIO—\$7,000.00.

COLUMBUS, OHIO, June 10, 1929.

Re: Notes of Sharon Rural School District, Noble County, Ohio, \$7,000.00.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

GENTLEMEN:—I have examined the transcript of the proceedings of the board of education and other officers of Sharon Rural School District, Noble County, relative