MOTOR VEHICLES, BUREAU OF: Chauffeur's licenses—kind of photograph to be obtained.

Hon. William Storen,
Treasurer of State,
Indianapolis, Indiana.
Att: Hon. Gus Mueller,
Chief Hearing Judge,
Bureau of Motor Vehicles.

Dear Sir:

I have before me your request that an official opinion issue and presenting the following specific inquiry:

"Will you please give us your opinion in this case as to whether or not pictures made by certain machines that are not true reproductions of a person, are permissible under the act?"

This involves an interpretation of the Uniform Operator's and Chauffeer's Act, which is chapter 162, of the Acts of 1929, the pertinent portion of the said statute being article (b) of section 11, which is as follows:

"LICENSES ISSUED TO OPERATORS AND CHAUFFEURS. Sec. 11. Licenses issued to operators and chauffeurs.

"(b) Every such license shall bear thereon the distinguishing number assigned to the licensee and shall contain the name, age, residence address and a brief description of the licensee for the purpose of identification, also a space for the signature of the licensee, and every chauffeur's license shall bear thereon a photograph of the licensee."

Chap. 162, Acts 1929, p. 505.

The term "photograph" has been defined at 48 Corpus Juris 1055, in the following language:

"PHOTOGRAPH. The paper copies taken from the original plate called the 'negative,' made sensitive by chemicals, and printed by sunlight through the camera;"

Citing Udderdock v. Commonwealth, 76 Pa. 340; and Corpus Juris, then presents this definition:
“A picture or likeness taken by photography.” (My italics.)

Citing Webster’s Dictionary, quoting Frankel v. German Tyrolean Alps Co., 121 Mo. A. 51, 55; 97 S. W. 961.

From the information contained in your letter of inquiry it appears that the pictures produced by the machines to which you refer are not copies taken from the original negative plate, but are developed "positives," no negative being used in the process. Hence, they are not "photographs" within the comprehension of the first definition submitted above.

The letter submitted in describing the pictures forming the basis of your inquiry states: "* * * pictures made by these machines are not a true reproduction of a person. They are an opposite likeness; that is, if a man parts his hair on the left, the picture parts it on the right; or if a man has a scar on the right side of the face, the picture shows the scar on the left." The essential part of a photograph within the purview of the second definition set forth above, is the element of "likeness." The facts stated in the letter quoted above, are sufficient to indicate that the pictures referred to are not true likenesses of the person photographed.

The intent of the general assembly was that the "photographs" mentioned in article (b), section 11 of the Uniform Operator’s and Chauffer’s Act was that the photograph was to be a "true likeness." The photographs are to be used for the purpose of identification. This purpose is defeated wholly if opposite likenesses are to be accepted.

It is my opinion, then, that pictures that are not true reproductions of the person are not "photographs" within the meaning of the section of the act in question.