

and the penalty thereon by civil action in his name as county treasurer; and without regard to the amount of said taxes said treasurer is authorized to enforce said lien in the same way that mortgage liens are enforced, and in said actions the county treasurer is represented by the prosecuting attorney.

The foregoing sections prescribe the procedure by which the county treasurer shall enforce the lien of taxes and assessments or either, or any penalty thereon, but if any such lands or town lots are not sold for want of bidders, the same shall under the provisions of Section 5744, General Code, be forfeited to the state. Said section reads as follows:

“Every tract of land and town lot offered for sale by the treasurer, as provided in the next preceding chapter, and not sold for want of bidders, shall be forfeited to the state. Thenceforth all the right, title, claim, and interest of the former owner or owners thereof, shall be considered as transferred to, and vested in, the state, to be disposed of as the general assembly may direct.”

Under the provisions of Section 2672, General Code, *supra*, the county treasurer subject to the approval of the county commissioners may contract with a suitable person to collect the taxes or assessments on lands, lots or parcels thereof which have become forfeited to the state by reason of the unpaid taxes thereon. The compensation of said collectors shall be payable from said taxes and shall not exceed twenty-five per cent of the amount collected.

Specifically answering your question it is my opinion that a county treasurer can not legally contract with any person to collect delinquent taxes on real estate on a percentage basis not exceeding twenty-five percent of the amount collected, even though the contract is approved by the county commissioners, unless said delinquent real estate has become forfeited to the state by reason of the unpaid taxes thereon.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

1852.

MARRIAGE—AUTHORITY OF JUSTICE OF THE PEACE TO SOLEMNIZE  
MARRIAGES—WHERE LICENSE IS OBTAINED.

*SYLLABUS:*

1. *By the terms of Section 11182, General Code, a justice of the peace has jurisdiction to solemnize marriages within the county in which he was elected justice of the peace.*

2. *Section 11186, General Code, requires a marriage license to be obtained in the county where the female resides. No section of the General Code requires a marriage to be solemnized in the county where the license therefor is obtained.*

COLUMBUS, OHIO, March 14, 1928.

HON. RALPH E. HOSKOT, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This will acknowledge your letter dated March 12, 1928, which reads:

“We respectfully ask your opinion in the following matter:

A man and woman secured a marriage license in the Probate Court of Hamilton County, Ohio. They came to Montgomery County, Ohio, and were married by a justice of the peace of Montgomery County.

We ask your interpretation of Section 11182 as to whether or not a justice of the peace, in the purview of this section, must be a justice of the peace in and for the county in which the marriage license was issued or whether a justice of the peace in another county within the state may perform the marriage ceremony?"

Section 11182, General Code, to which you refer, in so far as pertinent, provides :

" \* \* \* A justice of the peace in his county, \* \* \* may join together as husband and wife all persons not prohibited by law."

Section 1711-1, General Code, provides :

"That there be and is hereby established in each of the several townships in the several counties of the State of Ohio, except townships in which a court other than a mayor's court now exists or may hereafter be created having jurisdiction of all cases of which justices of the peace have or may have jurisdiction, the office of justice of the peace. \* \* \* "

By the terms of Section 11182, supra, jurisdiction is conferred on justices of the peace to solemnize marriages within their respective counties. In other words, although a justice of the peace is a township officer, by the terms of Section 11182, supra, in so far as solemnizing marriage is concerned, he has jurisdiction therefor co-extensive with the county in which he was elected. I fail to note any provision in Section 11182, supra, which requires that a marriage license must be obtained in the county in which a justice of the peace was elected in order that such magistrate may solemnize a marriage.

Section 11186, General Code, in so far as pertinent provides :

"Previous to persons being joined in marriage, notice thereof shall be published in the presence of the congregation on two different days of public worship; the first publication to be at least ten days before the marriage, within the county where the female resides; or, a license must be obtained for that purpose from the probate judge in the county where such female resides, \* \* \* "

Section 11186, supra, provides that previous to persons being joined in marriage, notice thereof shall be published in the presence of the congregation on two different days of public worship within the county where the female resides, or, a license must be obtained for that purpose from the probate judge in the county where such female resides.

By the terms of Section 11188, General Code,

"Each of the persons, for whom a marriage license is sought, shall personally appear in the Probate Court of the proper county and make application therefor, \* \* \* "

No section of the General Code requires that a marriage be solemnized in the county wherein the license therefor was granted.

In this connection your attention is directed to Section 11195, General Code, which provides:

"A certificate of every marriage solemnized, whether authorized by publication of bans in the congregation, or by license issued by the probate judge, shall forthwith be transmitted to the probate judge in the county where the marriage license was issued, or of the congregation wherein such bans were published is situated, or where the marriage was celebrated. All such certificates of marriage filed with the probate judge, shall be consecutively numbered and be recorded in the order in which they are received."

Answering your question specifically, it is my opinion that, by the terms of Section 11182, General Code, a justice of the peace has jurisdiction to solemnize marriages within the county in which he was elected justice of the peace. Section 11186, General Code, requires a marriage license to be obtained in the county where the female resides. No section of the General Code requires a marriage to be solemnized in the county where the license therefor is obtained.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1853.

APPROVAL, ABSTRACT OF TITLE TO LAND OF EMMA HOGLE, IN  
THE CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, March 14, 1928.

HON. CARL E. STEEB, *Secretary, Board of Trustees, The Ohio State University, Columbus, Ohio.*

DEAR SIR:—There has been presented to me for examination an abstract of title of certain real property situated in the city of Columbus, Franklin County, Ohio, and more particularly described as follows:

"Being Lot No. Thirty-five (35) of R. P. Woodruff's Subdivision of the south half of the south half of Lot 278 of R. P. Woodruff's Agricultural College Addition to the City of Columbus, as the same is numbered and delineated upon the recorded plat thereof of record in Plat Book 3, page 421, Recorder's Office, Franklin County, Ohio.

My examination of this abstract discloses that Emma Hogle who is the owner of record of said lot has a good, merchantable title thereto, subject only to the following exceptions:

1. Delinquent taxes for the years 1921 to 1926, aggregating, together with penalties included, the sum of \$22.92, are a lien on said premises.
2. The taxes for the year 1927 amounting to the sum of \$6.54, are a lien on said premises.

I have likewise examined the warranty deed executed by said Emma Hogle and by William A. Hogle, her husband, for the purpose of conveying said land and prem-