

715

1. MINISTER, REGULAR, RELIGIOUS SOCIETY OR CONGREGATION—DULY LICENSED IN COUNTY OF THIS STATE—CHARGE LATER ABANDONED—REMOVAL TO ANOTHER STATE—IF STILL A REGULAR MINISTER, MAY RETURN TO THAT COUNTY AND LEGALLY SOLEMNIZE A MARRIAGE.
2. WHEN MINISTER REMOVES TO FOREIGN STATE HE MAY UPON HIS RETURN TO OHIO PRESENT OHIO LICENSE TO PROBATE JUDGE OF ANY COUNTY IN STATE TO BE RECORDED AS PROVIDED BY SECTION 11184 G. C.—HE MAY THEN LEGALLY SOLEMNIZE A MARRIAGE—NOT REQUIRED MINISTER HAVE CONGREGATION IN THIS STATE.

## SYLLABUS:

1. When a minister is duly licensed in a county of this state, and later abandons his charge in that county and moves to another state, but such minister still remains a regular minister of a religious society or congregation, he may return to that county and legally solemnize a marriage.

2. When a minister is duly licensed in another county of the state and moves from the state, abandoning his charge, he may return if he is still a regular minister in a religious society or congregation, although said minister has no congregation in this state, and present his Ohio license to the probate judge of any county in this state, who must make a record of it as provided for in Section 11184, General Code. He may then legally solemnize a marriage, having thus complied with Section 11184, General Code. Opinion of the Attorney General, 1921, Vol. 1, p. 710, approved and followed.

Columbus, Ohio, July 11, 1949

Hon. Julian E. Clark, Prosecuting Attorney  
Preble County, Eaton, Ohio

Dear Sir :

Your request for my opinion is as follows :

"May I have your opinion concerning the legality of a minister of the gospel to solemnize marriages under authority of 11182 of the General Code under the following factual situations?

"First: "X" is a duly licensed minister in this county under authority of Section 11183 at a time when he has an active congregation in our county; later he moves to another state with a charge there, abandoning his charge in this county. Can he return from the foreign state where his charge is and legally solemnize a marriage in this county?

"Second: "Y" is a duly licensed minister in another county in this state in 1919; in 1920 he moves out of the state abandoning his charge in this state and in 1949 returns and presents his Ohio license to the probate judge in this county who makes a record of it as provided for in Section 11184 although he has no congregation in this state. Does "Y" have a right to solemnize marriages under Section 11182?"

Your request presents two questions, and I shall answer them in the order given.

First, Sections 11182 and 11183 General Code, relate to who may solemnize a marriage in Ohio. These sections read as follows :

"Section 11182. An ordained or licensed minister of any religious society or congregation within this state, who has obtained a license for that purpose, as hereinafter provided, or a justice of the peace in his county, or the mayor of a city or village in any county in which such city or village wholly or partly lies, or the superintendent of the institution for the deaf and dumb, or the several religious societies, agreeably to the rules and regulations of their respective churches, may join together as husband and wife all persons not prohibited by law."

"Section 11183. A minister of the gospel upon producing to the probate judge of any county within this state in which he officiates, credentials of his being a regularly ordained or licensed minister of any religious society or congregation, shall be entitled to receive from the court a license, authorizing him to solemnize marriages within this state so long as he continues a regular minister in such society or congregation."

Mr. X in your request obtained a license under these sections. His license has never been revoked. Therefore, it is my opinion that his license is still in effect.

In the case of *Re. Reinhart*, 6 O.N.P. 438, the court (Cuyahoga County Probate Court) speaking of Section 11183 General Code, then known as Section 6386, R. S., said (p. 440) :

“This law is to receive a liberal and not a strict construction.”

Section 11185 General Code, reads as follows :

“When the name of any such minister is so entered upon the record by the probate judge, such record, or the certificate thereof by the judge under the seal of his court, shall be evidence that such minister was duly authorized to solemnize marriages.”

Nothing is said in this section to the effect that such license shall be revoked if the minister leaves the state. All that is said is that when the name appears on the record this shall be evidence that he was duly authorized to solemnize marriages. For these reasons, it is my opinion that when a minister is duly licensed in a county of this state and later abandons his charge in that county and moves to another state, but such minister still remains a regular minister of the religious society or congregation, he may return to that county and legally solemnize a marriage.

Second: The answer to this question is, I believe, answered by an opinion of the Attorney General in 1921, Vol. 1, page 710, the second paragraph of the syllabus of which reads as follows :

“The statutes of Ohio do not require that the applicant for a license to solemnize marriages within this state be a resident of Ohio, and a non-residence minister of the gospel is entitled to receive such license, provided he produce to the probate judge of any county within this state in which he officiates, credentials of his being a regularly ordained or licensed minister of any religious society or congregation within this state.”

I concur in and adopt this opinion and believe it is dispositive of your second question.

Therefore, the answers to both of your questions must be in the affirmative.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.