

**MARRIAGE: Authority of a alien to perform.**

2976 R.S. 700 1929

11-13

November 3, 1933.

FILED  
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Mr. George W. Hartman  
Marriage License Clerk  
129 City Hall  
St. Louis, Missouri

Dear Sir:

Your request for an opinion dated October 16th, was in the following form:

"Can a person who is an ordained minister, but not a citizen of the United States, but is a resident of the State of Missouri, and a pastor of the Ethical Society in St. Louis, perform marriages in the State of Missouri."

Section 2976 R. S. No. 1929 provides as follows:

"Marriages may be solemnized by any judge of a court of record or any justice of the peace, or any licensed or ordained preacher of the gospel, who is a citizen of the United States or who is a resident of and a pastor of any church in this state."

Section 2977 R. S. No. 1929 provides as follows:

"Previous to any marriage in this state, a license for that purpose shall be obtained from the officer herein authorized to issue the same, and no marriage hereafter contracted shall be recognized as valid unless such license has been previously obtained, and unless such marriage is solemnized by a person authorized by law to solemnize marriages. Common-law marriages hereafter contracted shall be null and void. Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity thereof be in any way affected on account of any want of authority in any person so solemnizing the same under the next preceding section, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage."

Section 4364 R. S. No. 1929 provides as follows:

"Every person who shall solemnize any marriage, having knowledge of any fact which renders such marriage unlawful or criminal in either of the parties under any law of this state, or, having knowledge or reasonable cause to believe that either of the parties shall be under the age of legal consent, or is insane, mentally imbecile, feeble-minded or epileptic, or where to his knowledge, any other legal impediment exists to such marriage, and every person not authorized by law to solemnize marriages who shall falsely represent that he is so authorized, and who, by any pretended marriage ceremony which he may perform, shall deceive any innocent person or persons into the belief that they have been legally married, shall, on conviction be adjudged guilty of a misdemeanor, and be punished by imprisonment in the county jail not exceeding one year, or by a fine not less than five hundred dollars, or both such fine and imprisonment."

The qualification of citizenship is a conditional legal limitation upon all clergy in Missouri who hold themselves out as qualified to solemnize a marriage contract.

It is the opinion of this office that an ordained minister of any creed, not a citizen of the United States, is not legally qualified to solemnize a marriage contract in this State. It is our further opinion that one who falsely represents authority to solemnize the marriage contract, being legally disqualified, and pretends a marriage ceremony, he can be prosecuted for a misdemeanor as above set out.

Respectfully submitted

WILLIAM ORR SAWYERS  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK.  
Attorney General.

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