

MARRIAGE: It is not illegal for Circuit Clerk Ex-officio Recorder of Deeds to direct couples to ministers or other persons authorized under the statutes to perform marriages.

January 16, 1936.

1-17



Honorable Gilbert Barlow
Prosecuting Attorney
Harrison County
Bethany, Missouri

Dear Sir:

This Department is in receipt of your letter of January 9, 1936, enclosing a letter which you recently received from the Honorable J. Q. Brown, Justice of the Peace. Your letter is as follows:

"I enclose a query from Mr. J. Q. Brown a justice of the peace of Bethany Township Harrison County Missouri.

"It seems that the circuit clerk and recorder on issuing a marriage license or some of the deputies are attempting to direct the licenses to some other justice or minister to perform the ceremony.

"I think it is Mr. Brown's contention that the circuit clerk and his deputies merely have the duty of issuing the license and not attempt to direct to whom should go to have the marriage ceremony performed. I wish you would please advise on this matter."

By the terms of Section 2978 R. S. Mo. 1929, it is the duty of the recorder to issue a marriage license, said Section being as follows:

"The recorders of the several counties of this state, and the recorder of the city of St. Louis, shall, when applied to by any person legally entitled to a marriage license, issue the same, which may be in the following form:*

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By the terms of Section 2976 R. S. Mo. 1929, any judge of a court of record or any justice of the peace, or any licensed or ordained preacher of the gospel is authorized to solemnize marriage, said section being 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."

We agree with Mr. Brown in his contention that the circuit clerk or the recorder who issues the marriage license has performed his duties as soon as the license is issued, and there are no further duties devolving upon him to direct the marriage to any particular minister, justice, or another person authorized to solemnize the marriage. Mr. Brown mentions that the former circuit clerk was also an ordained minister, and in many instances performing the ceremony after issuing the license. We cannot discern anything illegal in this act on the part of the circuit clerk, as he was both qualified to issue the license and to solemnize the marriage, and there is apparently no conflict in the two duties.

Mr. Brown also states in his letter that the successor in the office of the circuit clerk is not a minister, but solicits and directs couples to certain persons to perform the wedding ceremony. We cannot declare this practice to be illegal as we know of no authority holding to the contrary, but we frankly say that such a situation is unusual.

Respectfully submitted

OLLIVER NOLEN
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General.

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