

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

WATERVILLE
SENTINEL PUBLISHING COMPANY

1915

MARRIAGE.—AUTHORITY TO PERFORM CEREMONY AFTER ONE HAS CEASED TO BE A CLERGYMAN OR ORDAINED MINISTER.

16th December, 1913.

Hon. J. E. Alexander, Secretary of State, Augusta, Maine.

DEAR SIR: In relation to the inquiry of Rev. C. M. Clark of the Bangor Theological Seminary as to the interpretation of Chapter 161 of the Laws of 1909, I will say that the act is perhaps susceptible to two interpretations; one that the license to a clergyman or an ordained minister is a continuing authority until removed, whether the clergyman or ordained minister remains such or not; and second, that this statute changed the law as laid down in Section 11 of Chapter 61 of the Revised Statutes and provided that a clergyman or a licensed preacher as such was qualified to perform the marriage ceremony, but before they could legally do so, they must obtain a license from your office. Under the latter interpretation, it seems to me that if for any reason one ceased to be a clergyman, or his license as a preacher was taken away, he was no longer authorized to perform the marriage ceremony; that that is an essential. Both Chapter 61 of the Revised Statutes and the Law of 1909 provide that the authority given under the appointment mentioned in Section 11 of Chapter 61 and the license mentioned in Chapter 161 of the Laws of 1909 shall continue until revoked.

It seems to me, however, that the second interpretation is the correct one; that it was the intent on the part of the legislature to change the existing law; in other words, that under the law as enacted in Section 11 of Chapter 61 of the Revised Statutes, a clergyman or person licensed to preach performed the marriage ceremony by virtue of his appointment by the Governor; that the appointment was of him as an individual although only clergymen or ordained ministers, etc., could receive the appointment, and that authority confined until his appointment or commission was revoked.

Under the act of 1909 the legislature evidently proposed a change of the law, and instead of there being an appointment by the Governor, a license issues automatically from your office

whenever proof is made from the fact that any individual applying is an ordained minister or clergyman. In this connection, the language of the statute seems to me to have some significance, in that it says that marriage may be performed by certain officials and by any clergyman or ordained minister but after he has obtained a license. In other words the authority to perform the marriage ceremony comes rather from the fact that he is a clergyman, or ordained minister, but which authority he can only exercise after receiving a license from your office; and when he ceases to be a clergyman or ordained minister, or his license to preach from any religious seminary or ecclesiastical body is revoked, he is no longer authorized to perform the ceremony.

No doubt any ceremony performed by any person under the impression that he was legally authorized to perform it would be a valid marriage. The only question would be whether the person so performing it subjected himself to the penalties provided in Section 12 as amended by Chapter 161 of the Laws of 1909.

No doubt, if such is not the law, the termination of the license to preach would be sufficient cause for the revocation by the Governor of the license to perform the marriage ceremony.

Very sincerely,

SCOTT WILSON,

Attorney General.