Marriages, Registration Of. Officers, Duty Of With Regard to Registration of Marriages.

Under Section 1995, Revised Codes, the failure to record marriages by those persons authorized to solemnize marriages is made a misdemeanor.

Helena, Montana, March 8th, 1911.

Justin M. Smith, Esq.,
County Attorney,
Bozeman, Montana.

Dear Sir:

I am in receipt of your letter of March 2nd, 1911, wherein you ask my opinion as to the application of Section 1995 of the Revised Codes being the penalty provided for violations of Sections 1758 to 1763, and asking generally for my opinion of the effect of Section 1995.

You are advised that in my opinion Section 1995 provides the only penalty for violations of Sections 1758 to 1763. Section 1995 appeared in the codes of 1895 exactly as it appears in the Revised Codes except that the chapters were not numbered in the original code as they are in the Revised Codes. Chapter III of the Revised Codes appeared as Chapter II of the Political Code and Chapter VII of the Revised Codes appeared as Chapter III of the Political Code. I advise you therefore that Section 1995 provides the penalty for the infraction of any duty imposed by Section 1758 to 1763; all these sections being enactments of the Political Code of 1895.

The above is my advice upon the specific question submitted by you, but you also ask my opinion as to the effect of Section 1995 upon the other chapters which it assumes to control.

The penalty of Section 1995 has no effect upon Chapter I, Article VII, for the reason that Chapter I which related entirely to Boards of Health is no longer a law, the entire chapter having been repealed by House Bill, No. 104, Acts of 1901, page 80, which in turn was repealed by Chapter 110, Laws of 1907. Section 1995 has only a limited reference to Chapter III for the reason that Article II, Chapter III, was not included in the Political Code of 1895, but is an enactment of the tenth session of the legislature (1907) and carries its own penalty clause.

Article II as you will notice embraces Sections 1764 to 1781 and Section 1780 provides penalties for the violations of the provisions of Article II. Section 1995 provides, of course, the penalties for violation of Chapter VII, Title VII, relating to cemeteries and sepultures. The roman numerals found in Section 1995 in brackets simply indicate that in the Political Code of 1895, Chapter III appeared as Chapter II and Chapter VII as Chapter III.

Respectfully submitted,
ALBERT J. GALEN,
Attorney General.