

Opinion No. 42-4028

February 21, 1942

BY: EDWARD P. CHASE, Attorney General

TO: E. L. Safford Lt. Col. (SS) NMNG Executive Officer. AGO Santa Fe, New Mexico

{*161} I have your letter of February 18, 1942, wherein you request our opinion as to whether or not an Army or Navy Chaplain would have authority, if he is transferred to New Mexico from any other state, to perform a civil marriage.

Section 87-102, New Mexico Statutes Annotated, 1929 Compilation, provides as follows:

"It shall be lawful, valid and binding, to all intents and purposes, for those who may so desire, to solemnize the contract of matrimony by means of any ordained clergyman whatsoever, without regard to the sect to which he may belong, or by means of any civil magistrate."

In view of the foregoing statutory provision, and assuming that a Chaplain in the Army or Navy is a "duly ordained clergyman", I am of the opinion that any marriage ceremony performed by him within the State of New Mexico between parties capable of contracting the marriage relationship under our laws would, in all things, be entirely valid. Of course, it is necessary for the parties to procure a marriage license, as provided for by our laws.

Trusting that the foregoing sufficiently answers your inquiry, and with best regards, I am

By HOWARD F. HOUK,

Asst. Atty. General