

Opinion No. 19-2409

October 23, 1919

BY: N. D. MEYER, Assistant Attorney General

TO: Hon. Harry P. Owen, District Attorney, Los Lunas, New Mexico.

Female Under 16 Years of Age May Marry

OPINION

I have before me your letter of October 20th, in which you ask for the opinion of this office relative to Sections 1493 and 3431 of the Code of 1915, and Chapter 51 of the laws of 1915, and ask whether or not a license to marry may be legally issued where the female is under the age of 16 years.

We are of the opinion that under Section 3431, a female may marry when between the ages of 15 and 18, with the consent of the parents or guardian, and that where a marriage is consummated in such a manner that Chapter 51 of the laws of 1915 is not in any way violated whatsoever.

We believe that Chapter 51 applies only in cases where an act of sexual intercourse is committed with the female under the age of 16 years before marriage regardless of whether or not it was done with the consent of the female. Furthermore, I believe it would be legal and proper if the District Attorney deemed it best and the consent of the female and her parents or guardian was given, a license could be legally issued and marriage consummated in the cases coming within the provisions of Chapter 51.

As this letter is being written, the writer recalls the provisions of the Criminal Code of California in regard to this subject, which are identical with the law upon our statute books at this time, and that the courts of California interpret said law exactly along the lines indicated in the foregoing paragraphs.

I trust that I have made myself clear and that your question has been satisfactorily answered.