

Opinion No. 57-13

January 28, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Assistant Attorney General

TO: Mr. Dan Sosa, Jr., District Attorney, Third Judicial District, Second Floor Court House, Las Cruces, New Mexico

QUESTIONS

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May a county clerk issue a marriage license to a girl of lawful age and another person who appears to be and presents a power of attorney of a person in Japan directed to him to apply for, obtain and marry the female applicant by proxy?

CONCLUSION

Yes.

OPINION

ANALYSIS

Reference is here made, as cited in your letter concerning Opinion No. 4283, May 11, 1943, wherein is found a thorough study of the question of proxy marriages in New Mexico. The response therein is in the affirmative, coupled with advice to the parties concerned,

". . . . to go through a new ceremony when such should become possible . . ."

In further reply to your inquiry, it might well be pointed out that the execution of a special power of attorney, for the purpose of participating in the application for a marriage license and subsequently in a marriage ceremony by proxy, should be before a person authorized to administer oaths, including military officers on active duty and should specify completely the required information as to age, relationship of the engaged persons, consanguinity, present marital status, and a specific statement authorizing the named attorney in fact or proxy to enter into a contract with the person named. In addition, affidavits of age may be required as provided in Section 57-1-10, N.M.S.A., 1953.

Please find enclosed a copy of the opinion to which reference is herein above made.