

**Opinion No. 18-2089**

March 6, 1918

**BY:** C. A. HATCH, Assistant Attorney General

**TO:** Honorable W. E. Lindsey, Governor of New Mexico, Santa Fe, New Mexico.

Pardoning Power May Be Exercised Pending an Appeal.

**OPINION**

We have your letter of the 5th wherein you ask whether or not the Executive may lawfully exercise the pardoning power in behalf of a man convicted in the lower court, but whose case is now pending on appeal in the Supreme Court.

The general rule regarding the time of granting pardons is laid down in 29 Cyc. 1564 to be:

"The power to pardon may be exercised at any time after the commission of an offense, either before legal proceedings are taken, or during their pendency."

Our Constitutional provision regarding the granting of pardons is found in Section 6 of Article V. of the Constitution and is:

"Subject to such regulations as may be prescribed by law, the governor shall have power to grant reprieves and pardons, after conviction for all offenses except treason and in case of impeachment."

There are no statutes restricting in any way the time in which a pardon may be granted. This being true, and, in view of the general rule, as quoted herein, we are of the opinion that the pardoning power may be legally exercised in the case mentioned in your letter.