

Opinion No. 39-3223

July 31, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mrs. Jessie M. Gonzales, Secretary of State, Santa Fe, New Mexico. Attention:
Miss Violet C. Hoffman, Director of Registration

{*88} In your letter of July 24 you inquire whether County Clerks may accept registration affidavits of married women who have registered by their given names and not according to the name of the husband.

Section 6 of Chapter 152 of the Laws of 1939 provides that "all married women shall register according to the name of the husband and not by the wife's given name," but, on the other hand, the last paragraph of Instruction No. 10 to the election officers contained at page 316, Chapter 153 of the Laws of 1939, provides, "Should the name of any married women be erroneously entered in the registration book by her given name instead of under the name of her husband, in entering such name upon each poll book, the name shall be entered under the name of her husband, as: Brown, Mrs. John M., not: Brown, Ida B."

Although this last paragraph was taken from the old election law, it was re-enacted in said Chapter 153 of the Laws of 1939 and was approved on the same day as Chapter 152.

Taking the two together it seems that although the registration law directs that the registration should be in the name of the husband, that nevertheless registration in the name of the wife would not be invalid for that reason. Consequently, affidavits of registration brought to the County Clerk by the registration clerks, or received by her through the mail or in any other manner, may be accepted if otherwise in proper form even though not in full compliance with the provision in Section 6, Chapter 152, Laws of 1939, above quoted.

However, every effort should be made to comply with the letter as well as the spirit of the law, and all registration clerks as well as the County Clerk or other persons administering the oath required for the affidavit of registration, should insist that married women do register in the name of the husband; and where an error has been made and married women are registered in their given names, every effort should be made to obtain a correction in the manner provided by the statute in the case of errors.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.