

Registration, of Married Women. Name, to be Used by Married Women. Initials, When Permissible. Husband's Initials, When May be Used.

A married woman applying for registration may give her own Christian name, or may use the initials of her husband's name, prefixing the title "Mrs." or "Mistress."

April 29, 1915.

Hon. James M. Blackford,
County Attorney,
Libby, Montana.

Dear Sir:

I am in receipt of a letter from the County Clerk and Recorder of your county relative to the name which should be given by a married woman when registering under the recent registration law, enacted by the Fourteenth Legislative Assembly. The questions presented appear to be: (1) Whether the use of the initials is sufficient, or whether the christian name should be written in full; (2) whether registration using the initials of the husband with the prefix "Mrs." is sufficient? These questions may, or may not have been called to your attention, but if they have not been, they probably will be, and we think it advisable to address a letter to you, as we do not give advice to county clerks, except through the county attorney.

The first question presented appears to be answered by the provisions of Section 6592, Revised Codes, which authorizes the use of initials, or some contraction of the christian name, instead of stating the name in full. Hence the signing of the affidavit by the elector, using only the initials or her christian name is sufficient;

Second. The registration law, enacted by the recent legislature, known as House Bill No. 287, does not specify what name shall be

used. In the form specified in the law a blank is left for the number, date, name and sex, and the affidavit attached thereto which the elector is required to subscribe, is to the effect that the facts stated are true. The name meant by the law is undoubtedly the true name, but the question is: What is the true name of a married woman. Our statute does not give any direction, neither is there any statute which requires the woman to take the surname of the man upon marriage. This is only a usage.

"Marriage at our law does not change the man's name, but it confers his surname upon the woman. Until a decree of divorce, giving a married woman leave to resume her maiden name, goes into full effect, or widowhood is succeeded by a new marriage and another husband, she goes by her former husband's surname. This is English and American usage. And with this actual marriage name, it would appear that a wife can only obtain another name by reputation. But in consideration of the rule that a person has the right to be known by any name he or she chooses, proceedings under the assumed name of a married woman have been upheld after judgment; and obligations incurred by or with third parties in her maiden name are held mutually binding."

Schouler's Domestic Relations, 5th Ed. Bara, 40 p.

In *Clark v. Clark*, 19 Kansas, 522, the plaintiff brought action in the name of Clark, while it was shown at the trial that her true name was Brown, but it was also proven that in the community where the action was brought, she had been known by the name of Clark, and the court held that for the purpose of that action, Clark was her name. In *Ulhein vs. Gladieux*, 78 N. E. 363, in considering the question of names, the court said:

"At marriage the wife takes the husband's surname, and to distinguish her from the husband, is called, 'Mrs.' or 'Mistress' not as a name but as a mere title; but otherwise her name is not changed. This person's real and legal name, therefore was 'Mrs. Lucy Rogers,' and not 'Mrs. Wm. Rogers.'"

If the surname may be changed by usage, we might with propriety ask why the given or christian name might not be so changed. We are aware of the fact that in this country the common usage is for a married woman not only to adopt the surname of her husband, but to use his initials, prefixing the title "Mrs", and by that name she is most commonly known. The christian name of a married woman is seldom ever known beyond the circle of her most intimate friends or relatives, although she may be widely known by her husband's name and initials with the word "Mrs." prefixed. The purposes to be subserved by the registration laws in the giving of a name at all, is for identification, and we know that under the usage, a married woman is usually better identified when she uses the initials of her husband's name, than she would be if she used her own christian name. The law being silent on the subject, and while it is most probable that the doctrine announced in the *Ulhein* case, as above quoted, is the true doctrine, yet, the fact that a married lady appearing for registration

has the right to state her own name, and if she chooses to use the initial letters of her husband's christian name, prefixing the "Mrs.," it is not sufficient ground to refuse her registration, for the clerk is under no obligation to institute an inquiry as to whether some other name would have been more appropriate. For instance, if she registers as "Mrs. L. J. Jones," the clerk would not know whether the letters "L." and "J." were the initial letters of her husband's given names, or the initial letters of her own christian name; nor would he be under any obligation to institute an inquiry to ascertain. Every one is entitled to one registration, and to one vote, and double registration by whatever name, would be a violation of law. The clerk undoubtedly has the authority to make inquiry as to whether the party applying for registration has theretofore registered, either under that name, or some other name, but in the absence of any fraud or attempted double registration, or the use of a fictitious name for that purpose, I am strongly inclined to the belief that there is no law which will prohibit a married woman from using the initials of her husband's given name, but prefixing thereto the word "Mrs."

Yours very truly,

D. M. KELLY,
Attorney General.