

Opinion No. 39-3311

October 20, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mrs. Gaby B. Madrid, Rio Arriba County Clerk, Tierra Amarilla, New Mexico.

{*117} In your letter of October 19th you say that your office has an original and duplicate affidavit of a set of registration affidavits, which has to be cancelled due to a mistake. You state, however, that the elector lost her triplicate and you wish to know whether you can file the affidavits in the cancelled files and allow her to register.

I am of the belief that since the affidavit has to be cancelled due to a mistake that you may allow said person to register; the triplicate affidavit being void due to said cancellation.

You also state that a number of unmarried women have registered as Mrs. while giving their given names.

You also state that widows will not use their husband's name, but have given their own names followed by Mrs.

Section 6, Chapter 152 of the Session Laws of 1939 specifically states that all married women shall register according to the name of the husband and not by the wife's given name.

Section 8 of Chapter 152 of the Session Laws of 1939 states that upon receipt of the original and duplicate affidavits, if in proper form, the county clerk shall forthwith file the same. There is no question, however, that in the above mentioned instances the affidavits are not in proper form and the county clerk shall not file same if a person offers to register in person.

This office, in Opinion No. 3230 concerning this particular matter, held as follows:

"When a person offers to register in person with the county clerk, the county clerk cannot accept registration by married women in any manner except under the name of the husband as required by Section 6 of the act; but if registration affidavits are received by mail or are turned in by registration clerks wherein married women have registered in their own names, they should be accepted for filing by the county clerk, as this does not vitiate the registration affidavit."

It is further held that the registration by a widow or a divorced woman in her own name or the name of her husband, whether the affidavit was executed with the full name of the voter or only with his initials, is entitled to be filed. The county clerk may not

question, however, the right of any person who may seek to register if said person registers in proper form.