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IN THE

Court of Appeals of Maryland

SEPTEMBER TERM, 1972

No. 105

MARY EMILY STUART,

Appellant,

v.

BOARD OF SUPERVISORS OF ELECTIONS OF HOWARD COUNTY, ET AL.,

Appellees.

APPEAL FROM THE CIRCUIT COURT FOR HOWARD COUNTY
(T. HUNT MAYFIELD, Judge)

APPELLEES' BRIEF

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STATEMENT OF THE CASE

Appellant's registration to vote was cancelled, after notice, by the Howard County Board of Supervisors of Elections because she declined to permit herself to be registered using the surname of her husband (E. 33, 46, 47). Appellant appealed the action of the Board by filing Petitions in the Circuit Court for Howard County as authorized by Article 33, Section 3-21(a) of the Annotated Code of Maryland (1971 Replacement Volume)*

* All references to Article 33 are to the Annotated Code of Maryland (1971 Replacement Volume and 1971 Supplement), unless otherwise indicated.

seeking to have her voter registration reinstated in the name of Mary Emily Stuart without including the surname of her husband, *i.e.* to have her registration reinstated in her maiden name (E. 1-9). The petitions were consolidated, and the demurrers of the Board were overruled. The Board answered (E. 10), and on the day of the hearing the State Administrative Board of Election Laws was permitted to intervene without objection as a respondent and to file its answer (E. 13). After an evidentiary hearing and argument by counsel before the Honorable T. Hunt Mayfield, the Court filed a Memorandum and Order concluding, in essence, that the requirement that a married woman be registered to vote using the surname of her husband was reasonable and not unconstitutional and dismissing the petitions (E. 15). It is from these dismissals that appellant appeals. Art. 33, §3-21(d).

QUESTIONS PRESENTED

1. Are the election boards of the State authorized by Maryland law to require a married woman to use the surname of her husband when registering to vote, unless her name has been changed by legal proceedings?

2. Does Maryland have a legitimate State interest in requiring a married woman to be registered to vote using the surname of her husband unless her name has been changed through legal proceedings?

STATEMENT OF FACTS

Appellant's registration to vote was cancelled by the Howard County Board of Supervisors of Elections after she had been notified pursuant to Article 33, Section 3-18(c) that she was required to complete a "Request for Change of Name" form to show the surname of her husband for the voter registration records or the Board would

be required to cancel her registration, and she had refused to comply (E. 23-24, 32-33, 46, 47). The Howard County board of elections did *not*, at any time, deny appellant the right to register to vote. At all times the board stood *ready* to maintain her registration if she would merely use the surname of her husband, which the board considered her legal name, for that purpose (E. 26, 33, 46). In fact, under Maryland law, appellant may reregister to vote for the forthcoming presidential election at any time through October 10, 1972, if she uses the surname of her husband. Art. 33, §§1-1(c), 3-8(a).

Appellant seeks to be registered to vote in her maiden name, Mary Emily Stuart, although she was married to Samuel H. Austell in Virginia in November, 1971 (E. 22-24). Appellant and her husband testified that they agreed before marrying that she would continue to use her own name and that they had consulted counsel, who apparently offered no objection (E. 22, 26-27). However, the understanding between appellant and her huband was oral and was not part of a general antenuptial agreement such as that entered into by Judge Marshall (E. 22, 26, 27, 32). Furthermore, appellant did not herself consult legal counsel, her husband consulted counsel in an unrelated jurisdiction — North Carolina, it was appellant's parents who consulted counsel in Virginia, there is no evidence of the exact questions asked or advice given, and appellant's husband acknowledged that there was *no* specific discussion relating to voting (E. 22, 27, 28). There is thus nothing concrete in the record to indicate that Virginia law is substantively different from Maryland law in the area of voting registration. Compare Art. 33, §3-18(c) and Va. Code Ann., §24.1-51 (Supp. 1971). (See Washington Evening Star, July 29, 1972, p. 1, col. 1, where it was reported that Virginia courts had granted Mrs. Mister's peti-

tion to change her name, but the petitions of two other women had been denied.)

At no time has appellant made any effort to change her name by legal proceedings in Maryland (E. 23). See Md. Rules BH70-BH75.

The action of the Howard County board of elections in cancelling appellant's voter registration because she refused to have her surname changed to her husband's on the registration books was in accordance with its accepted practice and interpretation of the law, supported by an opinion of the Attorney General's office (E. 32-34, 48). It has been the practice of the Howard County board ". . . for a considerable number of years" to require married women to register to vote under the surnames of their husbands (E. 34).

Furthermore, it was in accordance with the uniform Statewide practice of long standing. Mr. Willard A. Morris, State Administrator of Election Laws, testified that the practice of election boards generally in the State was that a married woman must use the surname of her husband when registering to vote (E. 35). His personal experience with the practice dates back to 1963, and his research of the statutes indicated that the practice goes back approximately to 1936 (E. 35). The practice was followed by the Baltimore City board when it sent a change of name card to Judge Marshall nine years ago (E. 30-31).

Mr. Morris further testified that the purpose of the practice was to provide a trail of identification and to prevent voter fraud (E. 35-36). There are approximately 1,762,000 registered voters in Maryland (E. 35). Assuming one-half are female and the majority of them are or will be at some time married, Mr. Morris testified that it is necessary

to have a trail to identify persons and to prevent voter fraud and thus, to protect voting rights (E. 36). If a married woman could register under different names, he testified, the identification trail would be lost (E. 35).

For example, under Maryland registration procedures, when a voter moves from one subdivision to another within the State and seeks to register to vote from his new residence, a cancellation notice is sent to the board of elections at his previous residence, and it is important that the county cancelling the voter's registration have the proper name of the voter for correct identification (E. 36-37). Cancellation is necessary so that voters cannot thereafter vote twice (E. 37). See Art. 33, §§15-5 and specifically 16-14(a) which provide that the only basis upon which a voter may be challenged on election day is identity. Uniformity of practice among the election boards of the State as to what name must be used by married women for registration purposes is, thus, important, and Mr. Morris testified that the opinion of the Attorney General's office that upon marriage a woman must change her surname to that of her husband on the voter registration books or the boards must cancel her registration, was distributed to all election boards in the State to further such uniformity of practice (E. 37-38, 48).

An election board would, of course, permit a married woman to register under a surname other than her husband's if she had her name legally changed by court order, and Mr. Morris testified that he was aware of one instance where a name change was effected in one hour to get on the ballot (E. 36, 40).

Mr. Morris further testified that election boards keep two files of registered voters by name: The first alphabetized by district and precinct and the second by county

or city [Baltimore City] (E. 40). Some boards that now use computers also have an identification number, but a majority of boards in the State are not using computers (E. 40). Furthermore, under some computer systems, the identification number is developed from the name (E. 43). In any event, numbers in the opinion of Mr. Morris would not provide an adequate voter identification trail without the voter's name because a person registering under different names would have different numbers (E. 41).

If two voters apparently have the same name, then addresses are compared to identify them, but addresses are not the initial means of identification (E. 41-42). Nevertheless, regardless of how or whether numbers and addresses are also used in keeping voter registration books, the starting point is always the voter's name (E. 44).

Because it considered the practice of requiring a married woman to register to vote using the surname of her husband throughout the State a vital part of the election process to insure proper voter identification and to prevent fraud, the State Administrative Board of Election Laws has unanimously taken the position that the practice should be continued (E. 37). The State Administrative Board is charged with the duty to exercise supervision over the conduct of elections in the State. Art. 33, §1A-1 (e)(i).

ARGUMENT

I.

THE ELECTION BOARDS OF THE STATE ARE AUTHORIZED BY MARYLAND LAW TO REQUIRE A MARRIED WOMAN TO USE THE SURNAME OF HER HUSBAND WHEN REGISTERING TO VOTE, *UNLESS* HER NAME HAS BEEN CHANGED BY LEGAL PROCEEDINGS.

It is the uniform, Statewide rule in Maryland that a married woman must use the surname of her husband

when registering to vote unless her name has been changed by legal proceedings, and this rule has been followed by the election boards of the State for some time, all as established by the testimony of Willard A. Morris, State Administrator of Election Laws, and Daniel L. Downey, Chairman of the Board of Supervisors of Elections of Howard County.

This rule is consistent with the common law rule as long accepted by virtually all courts of this county and by custom that upon marriage a woman assumes the surname of her husband by operation of law. *People ex rel. Rago v. Lipsky*, 327 Ill. App. 63, 63 N.E.2d 642 (1945); *Forbush v. Wallace*, 341 F. Supp. 217 (M. D. Ala. 1971) (three judge district court) affirmed *per curiam*, 405 U.S. 970 (1972); *Chapman v. Phoenix National Bank*, 85 N.Y. 437 (1881); *Wilty v. Jefferson Parish Democratic Exec. Comm.*, 245 La. 145, 157 S.2d 718 (1963) (dictum); Annotation, *Correct Name of a Married Woman*, 35 A.L.R. 417 (1925); 57 Am.Jur.2d, Name, Section 9; 65 C.J.S., Names, §3(c). This general rule, as recognized in the United States, was recently summarized in Hughes, Marija Matich, *And Then There Were Two*, 23 Hastings Law Journal 233 (1971):

> "Today, it is almost a universal rule in this country that upon marriage, as a matter of law, a wife's surname becomes that of her husband. While a wife may continue to use her maiden name for numerous purposes (professionally, for example), her name *as a matter of public record* is that of her husband. In order to *retain* her maiden name, the wife must go through court proceedings to *change* her name back to the one with which she was born." *Id.* at 233-34. (Emphasis partially supplied).

The case of *People ex rel. Rago v. Lipsky, supra*, is directly in point. There a woman, who had used her maiden

name as a practicing attorney for more than six years and whose husband "expressly" approved of her plans to continue her practice of law and other business affairs under her maiden name, had her registration in her maiden name cancelled by the election board and was required to reregister in her married name in order to vote. In upholding the action of the election board, the Court stated, 63 N.E.2d at 644:

> "Notwithstanding petitioner's contention to the contrary, it is well settled by common-law principles and immemorial custom that a woman upon marriage abandons her maiden name and takes the husband's surname, with which is used her own given name."

This common law rule was recently reaffirmed in the face of a constitutional challenge in *Forbush v. Wallace, supra,* where the refusal of the Alabama Department of Public Safety to issue plaintiff a driver's license in her maiden name because she was married was upheld. The Court stated at the outset of its consideration of the merits, 341 F. Supp. at 221:

> "We may commence our analysis of the merits of the controversy by noting that Alabama has adopted the common law rule that upon marriage the wife by operation of law takes the husband's surname [citations omitted]. Apparently, in an effort to police its administration of the issuance of licenses and to preserve the integrity of the license as a means of identification, the Department of Public Safety has required that each driver obtain his license in his 'legal name.' Thus, in conformity with the common law rule, the regulation under attack requires that a married woman obtain her license in her husband's surname."

For additional statements of the common law rule in the United States, see, *Chapman v. Phoenix National Bank,*

supra, 85 N.Y. at 449, where a confiscation petition issued in petitioner's maiden name was found invalid; *In re Kayaloff,* 9 F. Supp. 176 (S.D.N.Y. 1934) where the court held that a naturalization certificate must be issued in a woman's married name, even though petitioner was well known as a professional musician under her maiden name and feared financial loss and a discrepancy between her musical union card and her naturalization certificate if it was issued in her husband's surname; *Wilty v. Jefferson Parish Democratic Exec. Comm., supra,* 157 So. 2d at 724, 725 where the court held that a married woman should appear on the ballot using her husband's surname and her given name rather than using her husband's name in its entirety with the designation "Mrs."; *Freeman v. Hawkins,* 77 Tex. 498, 14 S.W. 364, 365 (1890) where service on a married woman in her maiden name was found defective; *Bacon v. Boston Elevated Rwy. Co.,* 256 Mass. 30, 152 N.E. 35, 36 (1926) where an automobile registered in a married woman's maiden name was found not to be registered in her legal name.

In the instant case, appellant's registration was cancelled pursuant to Article 33, Section 3-18(c). That section provides:

> "(c) *Notification to show cause before cancellation.* — Whenever the death, conviction of infamous crime, *change of name by marriage,* change of name by decree, of any registered voter is reported as above provided, the board shall cause to be mailed to the address of such voter, as it appears on the registration books or records, a notification that such death, or conviction of infamous crime, or *change of name by marriage*, or change of name by decree, has been reported to the board, and shall require the voter to show cause within two weeks after the mailing of such notification why his registration should not be cancelled. If no sufficient cause shall be shown, the registration of

such voter shall be cancelled by removing the registration cards or forms of said voter from the original and duplicate files and placing them in a transfer file. . . ." (Emphasis supplied)

Section 3-18(a)(3) requires the appropriate clerks of court to notify the election boards of changes of name by marriage. It states:

> "(3) The clerk of the Court of Common Pleas in Baltimore City and the clerk of the circuit court for each county shall file with said respective boards the former and present names of all female residents of said city or county, as the case may be, over the age of twenty-one years, *whose names have been changed by marriage* since the date of the last such report." (Emphasis supplied)

When construing a statute, the object is always to discover and carry out the legislative intent. *E.g., Barnes v. State ex rel. Pinkney*, 236 Md. 564 (1964); *Casey Dev. Corp. v. Montgomery County*, 212 Md. 138 (1957). The quoted provisions of Section 3-18 on their face are premised upon an assumption by the Legislature that a woman's name does change when she marries, in accordance with the common law rule. Any other conclusion would deprive the provisions of meaning because the only information possessed by the clerk of court is the fact of the marriage. The administrative application of Section 3-18(c) to require every woman voter who has married to change her name on the registration books gives the section meaning. If a married woman could elect whether to adopt her married name for voting purposes, then the purpose of the statute in furthering the State's interests in preventing voter fraud, in providing an accurate trail of identification, and in uniform record keeping would not be served.

Contentions similar to those made by Appellant were argued by the Petitioner in *People ex rel. Rago v. Lipsky*,

supra, as to the proper interpretation of the Illinois statute. The statute at issue in *Lipsky* used language very like that in Section 3-18(c). It provided that "any registered voter who changes his or her name by marriage or otherwise, shall be required to reregister anew and authorize the cancellation of the previous registration." In response to the question whether the name of a married woman was changed within the meaning of the statute by marriage, the court answered affirmatively by referring to the common law rule.

> "[The quoted statute] expressly recognized a change of name by marriage, and since it is only in the case of married women that there is any recognized custom or rule of law whereby marriage effects a change of name, it must logically follow that when the Legislature expressly referred to the fact that the name of a registered voter might be changed by marriage it had in mind the long-established custom, policy and rule of the common law among English-speaking peoples whereby a woman's name is changed by marriage and her husband's surname becomes as a matter of law her surname." 63 N.E.2d at 645.

Further, in answer to the contention that the Illinois statute did not require a woman to change her name for voting purposes upon marriage unless she chooses to regard her name as having been changed by marriage, the court held the section was mandatory and required a woman to reregister upon marriage, because otherwise, the law would become a nullity to be obeyed at the option of the voter.

The requirement that upon marriage a woman must change her name on the voter registration records seems to have originated with Chapter 77 of the Laws of Maryland of 1937, Section 29-0, and coincided with legislative provision for permanent general registration. The statu-

tory requirements of Section 29-0 as enacted in 1937 originally applied only in Baltimore City, but they are the predecessor of those in Article 33, Section 3-18 and were gradually extended to all counties. See Laws of Md. of 1945, Chap. 934, §28; Laws of Md. of 1959, Chap. 287. Prior to the enactment of these provisions there was no requirement that a woman, who was properly registered under her maiden name, change her name on the voter rolls when she married, just as there was no requirement that she or anyone else notify the election board of a change of address. 6 *Opinions of the Attorney General* 188 (1921).

The uniform and long-standing administrative practice and the construction and application of Section 3-18 and its predecessor provisions is entitled to great weight by the Court in determining the proper interpretation and application of Section 3-18(c). ". . . [A] long-continued and unvarying construction applied by administrative officials is strong persuasive influence in determining the judicial construction of the statute, and it should not be disregarded except for the strongest and most urgent reasons." *Smith v. Higginbothom*, 187 Md. 115, 133 (1946), and cases cited therein. See also, *Macke Co. v. State Department of Assessments and Taxation*, 264 Md. 121, 135 (1972). An administrative interpretation which has received the tacit approval of the Legislature is also entitled to great weight. *Comptroller v. Rockhill, Inc.*, 205 Md. 233 (1954); *Department of Tidewater Fisheries v. Sollers*, 201 Md. 603 (1953).

It is important to recognize that the only issue involved here is the requirement that a married woman use her husband's surname on the voter registration rolls. There is no issue in this case concerning the right of a married woman under Maryland law to use her maiden name, or any other

name for that matter, for professional or other purposes. The position of appellees is not contrary to the rule stated in *Romans v. State*, 178 Md. 588, 597 (1940), *cert. denied*. 312 U.S. 695 (1941), that *in the absence of a statute to the contrary* a person may adopt any name by which he may become known and transact business, but it is to be noted that in *Romans* the Court was ruling that a person could be prosecuted in an assumed name and that the Court's statement of the rule was ". . . without regard to his *true* name". *Ibid.* (emphasis supplied).

Appellant relies heavily on the Ohio case of *State ex rel. Krupa v. Green*, 144 Ohio App. 497, 177 N.E.2d 616 (1961), holding that a married woman could appear on the ballot using her maiden name over the objection of a taxpayer, and it may well be that the Ohio rule in this respect is contrary to the Maryland rule. However, there are important factual distinctions between the *Krupa* case and the instant one. First, the woman in *Krupa* had entered into a formal. written antenuptial contract that she would retain only her maiden name, while here appellant and her husband essentially only had an oral understanding which is more like the situation in *People ex rel. Rago v. Lipsky, supra* (E. 27). Second, the Ohio board of elections, having been notified by her that she was married, had permitted the woman to vote in three elections using her maiden name and had accepted her nominating petition in her maiden name. The Maryland rule and practice is to the contrary, and she would not have been permitted to vote or run for office using her maiden name in Maryland unless she had legally changed her married surname.

Under Maryland law there is a simple procedure available to permit a married woman to change her name for *all* purposes. Md. Rules BR 70-BH 75. A true copy of the court decree obtained pursuant to such procedure must

be accepted as sufficient evidence of a person's name. Art. 16, §123. Specifically, State election boards permit, indeed must insist, that a person be registered to vote under his or her legal name when changed by court decree. Art. 33, §§3-18(a)(4) and 3-18(c) (E. 36). As a practical matter the election boards of the State are not in a position to make complicated factual determinations as to whether a married woman voter is not and has never been known by her married surname. Therefore, it is reasonable for the boards, in order to provide uniform record keeping and accurate voter identification and to prevent fraud, to insist always upon use of the surname adopted by marriage unless a married woman has taken the relatively easy step of changing her name legally for all purposes by a court order which can be documented.

In conclusion, it is appellee's position first that the common law rule in the United States is that upon marriage a woman takes the surname of her husband by operation of law. Consequently, when Article 33 requires an applicant to give his "last name" (§3-12(b)) and to answer questions concerning his "name" under oath (§§3-6, 3-13(a)), it means the applicant's legal name; and when a woman's name is changed by marriage, she must change her name on the registration records. Art. 33, §3-18(c). Second, Article 33, Section 3-18(c) properly interpreted in light of the common law, whether rule or custom, and in light of the long-standing and uniform administrative practice, requires that a woman who marries must notify her election board of her change in surname, and if she refuses to do so, the election board must cancel her registration. Third, even if the rule that a wife assumes the surname of her husband upon marriage is based on custom rather than constituting common law, and even if Section 3-18(c) is not by its terms specifically applicable

to the instant case, the long-standing and uniform administrative practice is reasonable in light of custom and Section 3-18(c), is not prohibited by any other provision of Article 33, and thus should be affirmed.

II.

MARYLAND HAS A LEGITIMATE STATE INTEREST IN REQUIRING A MARRIED WOMAN TO BE REGISTERED TO VOTE USING THE SURNAME OF HER HUSBAND UNLESS HER NAME HAS BEEN CHANGED THROUGH LEGAL PROCEEDINGS.

Appellant has not been denied the right to vote. The Howard County Board of Supervisors of Elections was willing to permit her to remain registered when this suit arose and is willing at the date of this writing to permit her to reregister. Art. 33, §3-8(a). It insists only that she use the surname of her husband when doing so unless she has had her name legally changed by other proceedings.

Appellees recognize fully that the right to vote is "a fundamental political right, because preservative of all rights". *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) (dictum). See *Dunn v. Blumstein*, 405 U.S. 330 (1972), and cases cited therein. Therefore, if the *right* to vote had been *denied* by appellees, the State would have the burden of showing it was necessary to promote a compelling State interest. *Dunn v. Blumstein, supra.* However, there is simply no constitutional issue in this case involving a denial of the right to vote because appellant has not been denied that right. It is completely within her power and discretion to register to vote. She is required to do so in her legal name, whether by common law or custom, but no burden was imposed upon her which denied, or even impinged upon, her right to vote.

Even if the Howard County board's action amounts to regulation of appellant's right to vote, the Supreme Court

has recognized that the State is left with broad powers to regulate voting and the conduct of elections. As stated in *Williams v. Rhodes*, 393 U.S. 23, 34 (1968):

> ". . . the State is left with broad powers to regulate voting, which may include laws relating to the qualification and functions of electors."

Likewise, it was acknowledged in *Dunn v. Blumstein, supra*, 405 U.S. at ....., 92 S. Ct. at 1000:

> ". . . the States have the power to impose voter qualifications, and to regulate access to the franchise in other ways."

Cf., Bullock v. Carter, 405 U.S. 134 (1972), citing examples of legitimate State interests with respect to the regulation of candidacies.

Some of the legitimate interests of the State in requiring all married women to use the surnames of their husbands when registering to vote were outlined by Willard A. Morris, the State Administrator of Election Laws (E. 35-44). The requirement is necessary to provide a trail of voter identification and to protect against fraudulent voting through multiple registration in different names. Uniform voter identification is particularly important to accurately and efficiently cancel old registrations when voters move from one subdivision to another within the State. The uniform use of every person's legal surname promotes accurate record keeping and provides an accurate and efficient means of locating the registration record of each voter.

The alternative system suggested by appellant based on numbers is unsatisfactory. Most subdivisions do not use computers and thus do not have voters identified by number. Among those that do use numbers, different numbering systems have been adopted. Numbers would not protect against fraudulent voting because a person could be issued more than one number if different names were used. Thus, all systems depend in the first instance upon the proper name of the voter (E. 44). Furthermore, to retrieve the voting record of a voter if numbers were relied upon as the principal means of identification, each voter would be bound to remember his number or carry it with him; and it is less likely that a voter would remember his number than his name. Whether the best method has been chosen to achieve these legitimate State objectives is a matter for legislative determination.

Similar interests were found adequate in *Forbush v. Wallace, supra*, to uphold a constitutional challenge, based on the Equal Protection Clause, that the Alabama requirement that a married woman's driver's license be issued only in her husband's surname discriminated against the plaintiff, a married woman using her maiden name. Administrative convenience was also deemed an important consideration, as indeed it is in keeping voter registration records in this State by surname, including the husband's surname in the case of married women. Contrary to the assertion of amici curiae, the summary affirmance by the Supreme Court in *Forbush* does carry weight as precedent, unlike a denial of certiorari, because it is an affirmance on the merits, although it may carry less weight than an affirmance after argument. Stern and Gressman, *Supreme Court Practice*, 198-199, 223-224 (4th Ed. 1969). For example, the Supreme Court's *per curiam* affirmance in *Snell v. Wyman*, 281 F. Supp. 853 (E.D. N.Y. 1968), affirmed *per curiam* 393 U.S. 322 (1969), was cited by the Court in *Dandridge v. Williams*, 397 U.S. 471, 487 (1970).

Furthermore, the requirement challenged here is not discriminatory. All voters are required to register using

their legal surname. Art. 33, §§3-6, 3-12(b), 3-13(a). All voters whose names are changed must notify their election board of the change, whether the change be effected by marriage or court decree. Art. 33, §§3-18(a)(3), (4), 3-18(c). See also *Id.* at §§3-8(a), 3-9.

To the extent that the Court may find that a discrimination does exist, it is one based on sex and marriage because of the automatic consequence that, absent a legal change of name, a woman's surname becomes that of her husband upon marriage. If it exists, the discrimination is one caused by the uniform common law rule or custom, applicable to married women, and it is not one involving the extension of the elective franchise. The right involved is the right to assume any name a person wishes. However, the right to assume a name of one's choice does not have constitutional status. Rather it is based on common law. Furthermore, the Supreme Court has yet to hold that discriminations based on sex are inherently suspect and invidious and therefore that they can only be justified by showing a compelling State interest. Even in *Reed v. Reed*, 404 U.S. 71 (1971), which involved an Equal Protection challenge to an Idaho statute giving men preference over women in appointment as administrator of a decedent's estate, the test applied by the Supreme Court was the customary "rational basis" test. As demonstrated previously, the State has demonstrated a rational basis for its requirement that all persons register using their legal surnames, which in the case of a married woman is the surname of her husband.

Finally, whatever inconvenience the State rule may cause appellant is *de minimis* when weighed against the interests of the State in uniform record keeping, in accurate identification of voters, and in preventing voter

fraud, all to preserve the integrity of elections. There is a simple alternative available to her, either use her husband's name for voting purposes or follow the relatively simple procedure to have her name changed. The cases which have applied the "compelling State interest" test to strike down election laws have involved absolute denials of the right to vote to a class of voters. *E.g. Dunn v. Blumstein, supra,* (to new residents); *Kramer v. Union Free School Dist.*, 395 U.S. 621 (1969) (to residents who did not own or lease taxable real property and were not parents of public school children); *Cipriano v. City of Houma*, 395 U.S. 701 (1969) (to those who were not property taxpayers); *Carrington v. Rash*, 380 U.S. 89 (1965) (to those moving into the State while in the military); *Evans v. Cornman*, 398 U.S. 419 (1970) (to residents of a federal enclave). Here, of course, appellant is not denied the right to vote but is merely required to comply with the State's record-keeping provisions, just as every other voter. The State needs a uniform system for keeping track of registered voters, and recording them by surname is the most accurate and efficient. It requires, however, a uniform system for determining a person's proper surname and that is provided by the common law rule. The various boards of election are not in a position to make uniform value judgments concerning the validity of a name designation other than that made by law, and they are unable to have any assurance as to future name use unless they insist uniformly upon compliance with the common law or custom as it has evolved or received documented evidence of a legal name change in the form of a court decree. This is one reason why Maryland has provided a procedure for a person to change his legal name for all purposes by court determination and decree.