

**Referendum, Petitions for. County Clerk, Duty of in Certifying to List of Names. Petitions for Referendum, Names on How Certified to.**

A county clerk in certifying to the names on a referendum petition should be guided by the provisions of Section 108 of the Revised Codes.

September 16, 1915.

Hon. H. A. Bollinger,  
County Attorney,  
Bozeman, Montana.

Dear Sir:

I am in receipt of your letter submitting the question: as to whether a county clerk in certifying to the list of names presented to him on referendum petition, should be guided by the provisions of Section 108 of the Revised Codes?

While there may be an apparent conflict between the provisions of this section and Section 1 of Article V of the State Constitution, yet the only authority conferred upon the clerk in such matters is by said Section 108. The provision of the Constitution is not self-executing, hence, if this section is void, then there is not any guide given to the clerk in the law. I am, therefore, of the opinion that the clerk should follow the provisions of Section 108. The provision of the law is not so clearly in contravention of the constitutional provisions as to justify a holding to that effect until some court of competent jurisdiction decrees otherwise.

Yours very truly,  
J. B. POINDEXTER,  
Attorney General.