

Where more than one initiative petition has been filed with a county clerk, does the law require that the clerk count two hundred names the first two days and two hundred names each day thereafter on each petition presented for his consideration?

Section 37-103, Revised Codes of Montana, 1947, provides that the county clerk of each county in which any initiative petition is signed shall compare the signatures of the electors signing such petition with their signatures on the registration books and blanks on file in the clerk's office. The county clerk shall then prepare a certificate to the secretary of state, setting forth the signatures which he believes are genuine and those (if any) which he believes are not. The certificates and petitions are then forwarded to the secretary of state by the county clerk. This section provides further that a county clerk may only retain these petitions in his possession for a limited period of time, based upon the number of signatures on the petitions which must be compared and certified. In this regard Section 37-103, supra, provides in part:

"The count clerk shall not retain in his possession any such petition, or any part thereof, for a longer period than two days for the first two hundred signatures thereon, and one additional day for each two hundred additional signatures, or fraction thereof, on the sheets presented to him, and at the expiration of such time he shall forward the same to the secretary of state, with his certificate attached thereto, as above provided." (Emphasis supplied)

You query whether or not this provision requires the county clerk to compare and certify two hundred signatures the first two days, and two hundred signatures a day for each additional day, on each and every initiative petition which is presented to him or whether he is only required to compare and certify the signatures on one petition at a time.

The law requires that initiative petitions must be filed with the Secretary of State by a certain date; assuming that petitions for numerous different initiative measures are being signed

Opinion No. 100

**County Clerks—Initiative Petitions—
County Clerks Must Compare Signatures on All Petitions Presented for Their Consideration Simultaneously.**

Held: That a county clerk is required to compare the signatures on all petitions presented for his consideration simultaneously, that is, he cannot retain any petition in his possession for a longer period than two days for the first two hundred signatures and one additional day for each two hundred additional signatures, although this may require the clerk to compare and certify more than two hundred signatures a day.

June 28, 1952.

Mrs. Dorothy B. Cassett
Vice-Chairman, Petitions Committee
Governor's Interim Committee on
Mental Health
Welfare Department
Helena, Montana

Dear Mrs. Cassett:

You have requested my opinion on the following question:

and presented to the county clerk for comparison and certification, could he compare and certify signatures on only one petition at a time, and perhaps thus prevent the filing of other petitions with the Secretary of State in the time required by law? I believe the language of the statute is clear and unambiguous that he cannot.

It is therefore my opinion that a county clerk is required to compare the signatures on all petitions presented for his consideration simultaneously, that is, he cannot retain any petition in his possession for a longer period than two days for the first two hundred signatures and one additional day for each two hundred additional signatures, although this may require the clerk to compare and certify many more than two hundred signatures a day.

Very truly yours,
ARNOLD H. OLSEN
Attorney General