

Opinion No. 49-5221

June 7, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Mrs. Alicia Romero Secretary of State Santa Fe, New Mexico

{*48} I have your letter of June 2, 1949, asking my opinion as to whether or not one qualified elector may sign a referendum petition for another qualified elector. The entire subject of referendum is contained in Section 1 of Article 4 of the New Mexico Constitution which, in speaking of the referendum petitions, provides in part as follows:

"Such petitions shall be **signed** by not less than ten per centum of the qualified electors of each of three-fourths of the county. * * *"

This section further provides:

"* * * Nothing herein shall be construed to prohibit the writing thereon of the name of any person who cannot write, and who signs the same with his mark."

It should be called to your attention that any person who is unable to write may make his mark on a petition and request someone else to write his name for the purpose of identifying such mark. The above quoted provisions contemplate this and state the only exception to the provision laid down that a person may sign only his own name.

Your attention should also be called to the fact that the same section of the Constitution makes the violation of the foregoing provisions a felony. That portion of the section reads as follows:

"It shall be a felony for any person to sign any such petition with any name other than his own, or to sign his name more than once for the same measure, or to sign such petition when he is not a qualified elector in the county specified in such petition; * * *"

From the foregoing, it is the opinion of this office that no person, whether a qualified elector or not, may sign his name more than once or sign the name of another person to any referendum petition unless such signing is merely for the purpose of identifying the mark placed on such petition by some qualified elector who is unable to write and requests his aid in the matter.