

Opinion No. 22-3626

November 6, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. C. A. Hatch, Santa Fe, New Mexico.

Indians Not Residing in Reservation May Vote.

OPINION

{*190} In reply to your request over the telephone for an opinion as to whether Indians who are not living on an Indian Reservation or in an Indian Pueblo, and who pay taxes on property owned by them, are entitled to vote at an election, I beg to advise:

The Territorial Supreme Court, in the cases of United States vs. Lucero, 1 N.M. 422, United States vs. Santistevan, 1 N.M. 583, United States vs. Joseph, 1 N.M. 593, and Territory vs. Delinquent Tax Payers, 12 N.M. 141, held that Indians were citizens of the territory.

By virtue of the Enabling Act and the Constitution of the state, the status of the Indian, in so far as his citizenship was concerned, was not changed.

In two of the cases above mentioned, the territorial Supreme Court held that the property of Indians was subject to taxation, and subsequently Congress passed a law exempting the property of Indians from all taxes. This action by Congress was taken prior to statehood.

Since Indians are citizens of the United States and since those who do not reside in a Pueblo or on a Reservation and are the owners of property upon which they pay taxes, cannot be held to be anything but citizens of the United States, I am of the opinion that they are entitled to vote at any election.