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December 10, 1959  
Opinion No. 60-6

OPINION BY: WADE CHURCH  
The Attorney General

QUESTION: Are American Indians who reside  
on the reservation eligible to  
vote in Arizona elections?

CONCLUSION: Yes.

Citizenship in and of itself does not grant the right or privilege to vote. However, under the Equal Privilege and Immunities clause of Section 13, Article 2 of the Arizona Constitution a citizen cannot be denied the right to vote if he possesses the same qualifications as others who are granted the right to vote. This clause provides as follows:

"Equal Privileges and Immunities

Section 13. No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations."

Section 2 of Article VII of the Arizona Constitution provides some of the qualifications and disqualifications of voters. It reads as follows:

"§ 2. Qualifications of voters; disqualification

Section 2. No person shall be entitled to vote at any general election, or for any office that now is, or hereafter may be, elective by the people, or upon any question which may be submitted to a vote of the people, unless such person be a citizen of the United States of the age of twenty-one years or over, and shall have resided in the State one year immediately preceding such election. The word 'citizen' shall include persons of the male and female sex.

The rights of citizens of the United States to vote and hold office shall not be denied or abridged by the state, or any political division or municipality thereof, on account of sex, and the right to register, to vote and to hold office under any law now in effect, or which may hereafter be enacted, is hereby extended to, and conferred upon males and females alike.

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No person under guardianship, non compos mentis, or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, be qualified to vote at any election unless restored to civil rights. As amended, election Nov. 5, 1912, eff. Dec. 5, 1912."

The Arizona Supreme Court in the case of Porter v. Hall (1928) 34 Ariz. 308, 271 P.411, held that the above quoted provision in the Arizona Constitution prohibited Indians residing on the reservation from voting. In this case the status of the reservation Indian was construed to be a "person under guardianship" as provided in the Constitution.

Twenty years later, in the case of Harrison v. Laveen, 67 Ariz. 337, 196 P.2d 456, the Arizona Supreme Court expressly overruled the holding of Porter v. Hall, supra, and stated:

"We hold that the term 'persons under guardianship' has no application to the plaintiffs or to the Federal status of Indians in Arizona as a class."

Since the Harrison case, all citizens who have qualifications provided in A.R.S. § 16-101, are granted the right to vote.

This section provides as follows:

"§ 16-101. Qualifications of elector

A. Every resident of the state is qualified to become an elector and may register to vote at all elections authorized by law if he:

1. Is a citizen of the United States.
2. Will be twenty-one years or more of age prior to the regular general election next following his registration.
3. Will have been a resident of the state one year and of the county and precinct in which he claims the right to vote thirty days next preceding the election.
4. Is able to read the Constitution of the United States in the English language in a manner showing that he is neither prompted nor reciting from memory, unless prevented from so doing by physical disability.

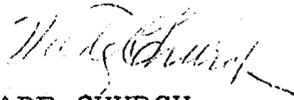
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5. Is able to write his name, unless prevented from so doing by physical disability.

B. At an election held between the date of registration and the next regular general election, the elector is eligible to vote if at the date of the intervening election he is twenty-one years of age and has been a resident of the state one year and the county and precinct thirty days.

C. A person convicted of treason or a felony, unless restored to civil rights, or an idiot, insane person or person under guardianship is not qualified to register."

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