

STATE OF WASHINGTON
SMITH TROY
Attorney General
Olympia

May 19, 1938

Honorable Clarence D. Martin,
Governor of the State of Washington,
Olympia, Washington.

Dear Governor:

I have your letter of May 16, 1938, in regard to the letter received from the Secretary of the Interior May 12th, referring to an opinion by Acting Solicitor for the Department of the Interior dated January 26, 1938.

In answer to the same, I will say that we have carefully examined the letters and find that this office since 1916 has ruled that the Indians are entitled to vote, upon the following authorities:

The Fifteenth Amendment to the Federal Constitution provides:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition servitude."

The Act of Congress, dated June 2, 1924 (Chapter 233, 43 Stat. 253; U. S. Code, Title 8, Sec. 3), provides:

"All Indians born within the territorial limits of the United States are declared to be citizens of the United States. The granting of citizenship to Indians shall not in any manner affect the right of any Indians to tribal or other property."

Article VI, Section 2 of the United States Constitution provides:

"This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made,

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under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

We also are of the opinion that the Washington law which would exclude Indians not taxed from voting is unconstitutional. In other words, it is our opinion that the Indians are entitled to vote regardless of the State's constitutional law. This has been the ruling of this office for several years and has been so ruled by the present attorney general on April 1, 1936.

Yours very truly,

G. W. Hamilton,
Attorney General.

GWH:jf/zw