

daily attendance. In our view, it would not be justice to this school district to now deny it this advantage and the very promise held out to them as the justification, in part at least, of our conclusions as expressed in our Opinion No. 71 of February 4, 1932.

Under all the circumstances involved in this matter, it is our opinion that you should base your apportionment of school funds to Las Vegas School District upon the complete average daily attendance of all pupils attending the schools in that district as shown by the last preceding annual school report; and that this is the only legal basis of apportionment that you can adopt.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General*.

HON. WALTER W. ANDERSON, *State Superintendent of Public Instruction, Carson City, Nevada*.

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SYLLABUS

**OPINION NO. 1932-90. Elections—Residents of Federal Reservations.**

Civil attachés of the Government Ammunition Base at Hawthorne, Nevada, residing within the so-called reservation at the munition base on government land, have the legal right to vote.

INQUIRY

CARSON CITY, August 9, 1932.

In your letter to me of 4th instant, you ask the opinion of this office on the following question:

Have civil attachés of the Government Ammunition Base at Hawthorne, Nevada, residing within the so-called reservation at the munition base on Government land, the legal right to vote?

OPINION

In Opinion No. 316 of Honorable M.A. Diskin, Attorney-General of Nevada, as published in his Biennial Report for the years 1927-28, Mr. Diskin, as Attorney-General, has quite an exhaustive discussion of a similar question. It is true that he was discussing the right of Government employees residing on Indian Reservations to vote; but, in large measure, the principles announced in that opinion are applicable to this situation as it exists at what you designate as "The Government Ammunition Base at Hawthorne" and which you later designate in your letter as "The Reservation at the Base." The conclusion arrived at by him in that opinion applies with equal force in this case. You are, therefore, referred to said Opinion No. 316 for a discussion and statement of the principles applying in such cases and for the conclusion reached.

My information is that no Federal Reservation, in the true sense of the words, has been created at the Base at Hawthorne. I do not know of any congressional legislation creating such a reservation there; and no map and affidavit, as provided for in the 1921 Statutes of Nevada, chapter 23, page 27, have been filed in the office of the Governor of this State, as was done at Boulder City. I am informed that there has not been any such congressional legislation, and know that no such map and affidavit have been so filed. The most that has been done by the Federal Government is that the land belonging to the Federal Government has been withdrawn from entry and homestead.

Even if the map and affidavit above mentioned had been made and filed in the office of the Governor of this State, it is our contention that the State laws would still apply, including the right of franchise. In fact, arrangements are being made for the people within the so-called Boulder Canyon Project Federal Reservation of the United States in Nevada, at Boulder City, Nevada, to vote at the September primary election and the November general election,

notwithstanding the fact that the attempt has been made to create a Federal Reservation by the filing of the map and affidavit in the Governor's office.

Nevada Compiled Laws 1929, section 2539, reads as follows:

Electors of the State of Nevada in the military service of the United States may, when called into such service, vote in accordance with the provisions of the Act approved March 14, 1899.

This Act of March 14, 1899, provides the manner in which electors in the military service of the United States may vote. There is nothing in the Act which would prohibit the civil attachés mentioned in your inquiry from voting.

It is the opinion of this office that the attachés of the Federal Government residing in the so-called reservation at Hawthorne may legally vote at elections in this State; provided, they meet all the other requirements as to residence specified in the Nevada law governing the elective franchise. In other words, the people residing within the so-called reservation have the same right to vote at elections in this State as they would have if they resided elsewhere in the State; and the mere fact that they reside within the so-called reservation does not prevent them from having the legal right to vote, and is not a cause for disfranchisement.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General*.

HON. FRED L. WOOD, *District Attorney, Hawthorne, Nevada*.

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SYLLABUS

**OPINION NO. 1932-91. Public Schools—Census.**

The taking of a school census is entirely within the discretion of the State Board of Education.

INQUIRY

CARSON CITY, August 10, 1932.

About 6th instant, I received a long letter from you, dated August 4, 1932, in which you discussed the apportionment of school moneys in this State, and particularly the apportionment of the proper portion thereof to Las Vegas School District; and Opinions Nos. 71 and 89 of this office relating to such apportionment.

In your letter you accept as correct the above-mentioned Opinions Nos. 71 and 89, but say that the information furnished this office by you, upon which those opinions were based, was not as full and complete as it should have been and that the questions asked this office by you and upon which those opinions were based were not sufficiently complete to bring out in those opinions the entire information you desired. In this connection, you call attention to Nevada Compiled Laws 1929, section 5772, which relates to "Resident children" and "Nonresident children," and deals with the method of the taking of the school census and the duties of census marshals in connection therewith, and ask the following questions:

1. Is any part of this section to be construed as affecting reports of average daily attendance of pupils as submitted by school districts to the Deputy Superintendents? If so, what parts are in effect and what parts void?
2. Is there anything in sections 5772 or 5778, N.C.L. 1929, authorizing the Deputy Superintendent of Public Instruction to strike from the district reports of average daily attendance the names and thus the average daily attendance of any pupil?