of the provisions of the full train crew law shall apply to the operation of light engines *when running as such* outside the yard limits. A disabled engine unquestionably is not running under its own steam. It is being towed or pushed by another engine. In such condition we think it constitutes nothing more nor less than a car because of its inability to move under its own power. The Legislature undoubtedly intended that a light engine which in common railroad parlance is an engine proceeding over the line of railroad without anything else attached to it, either locomotive or car, and contemplates an engine preceding under its own power. The word "light" as used in connection with electrical railway motor means that it has not cars attached. Buchanan v. Norfolk & Western Railway Company, 135 S. E. 384.

Certainly, the same interpretation of the word logically follows when used in connection with a steam locomotive. We think that the foregoing analysis of the language of section 6322 is correct and that the Legislature never intended the law not to apply where disabled locomotives were being towed by another locomotive. Certainly, if the light engine were sent out from the terminal to pick up a disabled box car and tow it to the terminal the law would require the crew specified in section 6318 N. C. L. 1929. There is no reason to suppose that the Legislature intended a similar act on the part of the railroad to be beyond the purview of the law simply because a disabled locomotive is to be towed to a terminal instead of a car.

The Supreme Court of this State well said in State v. Nevada Northern Railway Company, 48 Nev. 436, that while the full crew law is penal in nature and to be strictly construed, the Supreme Court cannot so interpret it as to defeat the Legislature's obvious purpose. That purpose being to promote the public safety by requiring common carrier railroads to provide adequate crews. The public is just as interested in the safe operation of a railroad with respect to the towing of disabled locomotives as in any other operation having to do with the movement of trains. The handling of a disabled locomotive by the engine crew of the towing locomotive is in every way as hazardous to the public as it would be if such engine crew were required to handle one or more box cars without any additions to the crew for the purpose of protecting the movement of following or approaching trains.

We think that the towing or pushing of a disabled locomotive with another locomotive manned by a crew of only two men outside of yard limits constitutes a violation of the law.

Yours very truly,

W. T. MATHEWS, Deputy Attorney-General.

B-24. Old-Age Assistance--Residence in State Essential for Participation.

Under both the Federal Social Security Act and the State Old-Age Pension Act, actual residence in the State for a period of five years during the last nine years immediately preceding such application, one year of which five years must have been continuous and immediately preceding the making of the application. The residence required as to the one year at least is the actual, physical, and corporeal presence continuously for said period of one year, referred to in said laws as "actually reside."

CARSON CITY, December 17, 1940.

MR. HERBERT H. CLARK, Supervisor Division of Old-Age Assistance, Nevada State Welfare Department, Reno, Nevada.

DEAR HERBERT: Much as I regret to do so, I am compelled by the language of chapter 67, 1937 Statutes of Nevada, section 2, paragraph (b) to hold, in answer to your letter to me of December 16, that a person must "*actually reside*" in this State, among other things, continuously for a period of "*one year*" immediately preceding the making of such application for old-age assistance, and have all the other qualifications of eligibility specified in said section 2, in order for him or her to be entitled to old-age assistance under said chapter 67. While the person to whom you refer is unquestionably a legal "*resident*" of this State for voting purposes and for all other purposes, the status of the person for the last one year continuously and immediately before the person makes application for old-age assistance is based upon an entirely different theory from that of residence. The applicant must not only be a legal "*resident*" of the State, but must have "actually resided in this State" for five years or more during the last nine years immediately preceding the making of such application, and one year of such actual residing in this State must have been the year immediately preceding the making of such application. The words "actually resided" as used in said paragraph (b) simply means that the applicant actually lived or was physically and corporeally present in the State for said period of time, *i.e.*, five years during the last nine years, one year of which five years must have been continuous and immediately preceding the making of the application.

Under the law of residence of this and of practically every other State in the Union and of every other national of the world, a person after having once established residence by being actually present in the place where residence is claimed for the period required by law, with the intention during all of that time to make that place his or her home or residence for at least an indefinite period of time, may go away to some other State and still claim residence in the State where such residence was formerly so established by claiming it to be his or her residence and by going back to that place to vote and not exercising the right of franchise or other rights incident to residence in the State or Nation to which he or she moved for as long a period of time as he or she may desire. In other words, after once having established legal residence in a place, the person may retain residence in that place without being physically and corporeally present in it; but a person cannot "*reside*" in any place without being actually, physically, and corporeally present at that place. Said section 2 having used the words "*actually resided*," simply requires that the applicant must have been actually, physically, and corporeally present in this State for at least a year immediately preceding the making of the application for old-age assistance.

I regret very much to have to so hold; but there is no sensible way of giving the expression "actually resided" any other legal meaning.

This would not apply, however, if the person to whom you referred in your letter had been granted such assistance while living here, the mere going to Portola, California, to work and as a matter of necessity, with the intention of returning to this State and continuing to make it her

home and residence would not necessarily take her off the list of recipients. The requirement of having "actually resided" in this State continuously for one year immediately preceding the making of the application applies only to *new applicants* or new recipients of old-age assistance.

Yours very truly,

GRAY MASHBURN, Attorney-General.

B-25. School Law--County Board of Education--Traffic Patrols.

County Boards of Education are not empowered by the laws of Nevada to provide for traffic patrols or the duties thereof by school children.

CARSON CITY, December 16, 1940.

HONORABLE JOHN W. BONNER, District Attorney, Ely, Nevada.

DEAR MR. BONNER: Further reference is hereby made to your letter of December 7 requesting an opinion as to whether the members of the Board of Education of White Pine County would be personally liable for injuries occurring to students assigned to traffic patrol duties during noon hours and other times. You stated in your letter that the Attorney-General of the State of Utah had rendered an opinion on a similar question in Utah. We advised you that we would secure a copy of the Utah Attorney-General's opinion and then advise you later our views in the matter.

Attorney-General Mashburn did obtain a copy of the opinion of the Attorney-General of Utah and briefly we may state that it concurs with your views in the matter in that the laws of Utah did not authorize Boards of School Trustees and Boards of Education to direct that school traffic patrols could be assigned to traffic patrol duties.

We concur with this opinion. A search of the laws of Nevada pertaining to schools and school children and also school boards and Boards of Education fails to disclose that such boards are authorized or empowered to provide for traffic patrols or duties thereof to be performed by school children. We think the general law is that if such traffic patrol activities are indulged in and an injury should result to one of the students, that personal liability might accrue to the members of the School Boards as individuals. It is said in 56 Cor. Jur. 854, section 1094 that "in the absence of statutory authority, a school district has no power to require pupils to serve in student patrols to protect the younger pupils at dangerous street intersections on their way to and from school."

It may be that traffic patrols on the part of older pupils engaged in protecting the younger pupils is a very fine thing. However, it would seem that if such practices be indulged in, school boards should take measures to protect themselves from any liability, and just how this can be accomplished without specific legislation is somewhat hard to determine. Perhaps written