of the court that the Superintendent had no power to correct the census report himself turned upon the fact that the law, as it existed at that time, provided expressly for a different method of correcting an erroneous census report, to wit, by ordering a new census. Since that case was decided, the law of this State has been changed; and this change is expressed in said section 5778, which provides expressly that the Deputy Superintendent of Public Instruction shall compare and correct census reports by striking names from it which he knows are erroneously included in it. This change in the law makes the case of State v. Wedge, supra, inapplicable and of no force and effect insofar as our present law is concerned.

But it must be kept in mind that this right to correct or strike relates solely to *census reports*, and that it does not in anyway confer upon Deputy Superintendents of Public Instruction the right to so correct *"Reports of average daily attendance."*

It must also be kept in mind that "Average daily attendance" is the present basis of apportionment of school funds.

3. In answering your question No. 3, it must be kept in mind that the entire theory of the School Law of this State is that the school funds of the State are for the education of "Resident children" of the State. There is not even a hint in the School Laws of this State that even one cent of the school funds paid by the taxpayers of the State on property situated in the State is to be spent for the education of children who do not reside in the State or who do not come within the class designated in said section 5772 as "Resident children."

Upon this general principle and general purpose of the School Law, it is the opinion of this office that the Superintendent of Public Instruction of this State has the implied authority at least to refuse to apportion State and county moneys to a School District or for a School District to cover children reported in "Average daily attendance by a School District who are not residents of the State." So, if you know of any school district in this State which has included within its report of average daily attendance for the last preceding school year any child or children who are not resident in this State, to wit, who are nonresidents of this State or do not reside within this State, you have implied authority at least to eliminate such nonresident children from consideration in your apportionment of school funds to such school district.

From my conversations with you, I understand that this situation relates solely to school districts which are situated on and near the border-line between this State and adjacent States, and where children from these adjoining States attend the public schools of this State. It is unfortunate, but the fault is in allowing such nonresident children to attend the public schools of this State, supported by moneys of this State, free of tuition. Such a practice should not be permitted and is not sanctioned by the law. In this connection, it should be kept in mind that the children living within the so-called reservation at Boulder City and adjacent territory are not nonresident children of this State, as we now construe the law of this State.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General.*

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

SYLLABUS

OPINION NO. 1932-92. Elections—Referendum.

A mere majority of the votes of the qualified electors of the county voting on the question submitted for referendum vote is sufficient to legally approve or disapprove, as the case may be, a law relating to that county alone.

INQUIRY

CARSON CITY, October 3, 1932.

In an election involving a referendum vote in which a law relating to a county alone is submitted to a vote of the qualified electors of that county alone for their approval or

disapproval, what majority is required for approval or disapproval of such local law, that is to say, is a majority of all votes cast in the county at that election necessary to the approval or disapproval of such a local law or is a majority of the votes cast on that question alone sufficient to legally approve or disapprove such a law?

OPINION

The above question presents an entirely different question and the construction of an entirely different law from those involved in Opinion 389 of Honorable M.A. Diskin, Attorney-General, in his Biennial Report for the years 1929 and 1930. That opinion related to a State referendum vote and the Constitution and law governing such a State referendum, while the above question involves the Constitution and a law of this State as they relate to a county referendum or a referendum vote on a law which relates to a county alone.

This opinion is limited to a referendum vote in a county alone and to a law relating to that county alone. Article XIX, section 3 of our Nevada Constitution, provides in part as follows:

> The legislature may provide by law for the manner of exercising the initiative and referendum powers as to county and municipal legislation, but shall not require a petition of more than ten per cent (10%) of the qualified electors to order the referendum, nor more than 15 per cent (15%) to propose any municipal measure by initiative.

Pursuant to the above-mentioned authority so delegated to the Legislature of this State, the Legislature of Nevada enacted a law in 1915, now known as section 2585, Nevada Compiled Laws 1929, in which it is provided as follows:

> When a majority of the electors of such county voting upon the question submitted shall by their vote signify approval of such law or resolution, such law or resolution shall stand as the law of the state, and shall not be overruled, annulled, set aside, or in anyway made inoperative, except by direct vote of such county. When a majority of the electors of such county shall so signify disapproval, the law or resolution so disapproved shall be void and of no effect.

It is evident from the above-quoted language of said section 2585 that the Legislature of this State has definitely provided that a mere majority of the electors of a county *"voting upon the question"* is sufficient to either approve or disapprove local legislation relating to the county alone. If a majority of the electors voting upon the question vote to approve the law, then the law is approved. If a majority of the electors voting upon the question vote to disapprove such a law, then the law so disapproved shall be "void and of no effect."

Since the Constitution of the State delegated to the State Legislature the authority to "provide by law for the manner of exercising the initiative and referendum powers as to county and municipal legislation," the Legislature of the State was entirely within its delegated authority in enacting said section 2585.

From the foregoing, it is the opinion of this office that a mere majority of the votes of the qualified electors of the county voting on the question submitted for referendum vote is sufficient to legally approve or disapprove, as the case may be, the law relating to that county alone.

Respectfully submitted,
GRAY MASHBURN, *Attorney-General.*

HON. HOWARD E. BROWNE, *District Attorney, Austin, Nevada.*

SYLLABUS