word "undertaken" in said statute, if the meaning of the said word "work" as laid down by the above opinion is to be adopted.

In the latest of the opinions of the Attorney General construing the one year provision of section 12912, General Code, namely, Opinions of the Attorney General for 1929, volume I, page 631, it was held as disclosed by the syllabus:

> "A member of a board of park trustees appointed under the provisions of section 4068 of the General Code, may resign and immediately thereafter be legally appointed park superintendent."

In the opinion the then Attorney General stated at page 633:

> "Quite obviously the statute was designed primarily to prevent a municipal officer, as such, committing the municipality to the prosecution of some special project involving the expenditure and then resigning and, in a private capacity, reaping profit from the very work he helped to initiate. This can have no application to the present case and I therefore feel that there is a violation of neither the letter nor the spirit of the law."

I concur in the construction placed on section 12912, General Code, by the former opinions. An examination of the General Code reveals no other provision of law which would prevent an ex-marshal from being employed on a salary by a board of public affairs of a village.

I am therefore of the opinion, in specific answer to your question, that a board of public affairs of a municipality may hire at a definite salary an ex-marshal of such municipality to read gas meters for the municipality without violating section 12912, General Code, or any other section or sections of the General Code of Ohio.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2256.

SCHOOL DISTRICT—LIABILITY OF DISTRICT FOR TUITION OF PUPIL WHO ATTENDS HIGH SCHOOL OUTSIDE DISTRICT BUT OTHER THAN THAT TO WHICH ASSIGNED.

SYLLABUS:

1. *When a district board of education contracts with another district board of education for the admission of one or more of its resident high school pupils into the school of such other district in pursuance of Section 7750, General Code, such contract is in effect, an assignment of the pupils affected thereby to the schools of the other district.*

2. *Even though a high school pupil residing in a district which does not maintain a high school is assigned to a high school outside the district of his residence, the pupil may elect to attend another high school, and the question of the liability of the board of education of the district of his residence for tuition in the high school which he elects to attend will be governed by the provisions of Section 7764, General Code.*

3. *Where a pupil residing in a school district which does not maintain a high*

school, has been assigned to a high school outside the district which is more than four miles from his residence, the board of education of the district of his residence is liable for so much of the cost of his tuition in the school which he chooses to attend as the said board would be required to pay for his tuition in the school to which he had been assigned, regardless of whether or not transportation to the high school to which he had been assigned is offered.

COLUMBUS, OHIO, February 5, 1934.

HON. ERNEST L. WOLFF, *Prosecuting Attorney, Norwalk, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

> "Within the body of Section 7748, General Code, is found this sentence: 'A board of education may pay the tuition of all high school pupils residing more than four miles by the most direct route of public travel from the high school provided by the board when such pupils attend a nearer high school, or in lieu of paying such tuition the board of education may pay for the transportation to the high school maintained by the board of the pupils living more than four miles therefrom.'
>
> Also the following appears in Sec. 7750, G. C.: 'A board of education not having a high school may enter into an agreement with one or more boards of education maintaining such school for the schooling of all its high school pupils. When such agreement is made the board making it shall be exempt from the payment of tuition at other high schools of pupils living within three miles of the school designated in the agreement, if the school or schools selected by the board are located in the same civil township, as that of the board making it, or some adjoining township.'
>
> The facts are as follows:
>
> The board of education of S. township has entered into an agreement with the board of education of the city of B. for the schooling of all its high school pupils. The S. board pays tuition and furnishes transportation for all its high school pupils to the B. high school, the distance being more than four miles. However, the B. high school is not located in the S. civil township, nor in an adjoining township. A pupil residing in the S. township school district refuses to accept the tuition and transportation offered by the board of education of S. township and attends instead the M. high school which is situated neither in S. township nor in an adjoining township.
>
> The question is whether the S. board of education is liable to the M. board of education for the tuition of this lone pupil under the statutes quoted above, or under any other statute."

I gather from your inquiry that the "S" township board of education does not maintain a high school. It provides high school facilities for its resident high school pupils by contracting therefor with the board of education which maintains the "B" high school. This "B" high school is not a school "provided by the board" or "maintained by the board", as those phrases are used in Section 7748, General Code, quoted by you in your letter. Anyway, this provision of

the statute applies in cases only where the pupil lives more than four miles from the school maintained by the board and attends a nearer school.

It does not appear from your inquiry whether or not the "M" high school which the pupil in question is attending, is nearer to the pupil's residence than the high school in "B" district, and it makes no difference, as I view it.

Section 7750, General Code, referred to in your inquiry, is in no wise dispositive of the question submitted, for the reason that the "B" high school is more than three miles from the residence of the pupil in question, and for the further reason that this high school is not located in the same civil township or in an adjoining township to the one in which the pupil lives.

The question of the liability of the "S" board of education for the tuition of this pupil is controlled, in my opinion, by Section 7764, General Code, which is of later enactment than either Section 7748 or Section 7750, General Code. Said section 7764, General Code, reads as follows:

> "The child in his attendance at school shall be subject to assignment by the principal of the public school or superintendent of schools as the case may be, to the class in elementary school, high school or other school, suited to his age and state of advancement and vocational interest, within the school district; or, if the schooling is not available within the district, without the school district, provided the child's tuition is paid and provided further that transportation is furnished in the case he lives more than two miles from the school, if elementary, or four miles from the school, if a high school or other school. The transportation of high school pupils under this section shall be in accordance with the provisions of 7749-1. The board of education of the district in which the child lives shall have power to furnish such transportation. Provided, however, that when a high school pupil shall attend a high school other than that to which such pupil has been assigned, the transportation and tuition shall be based on the cost of the transportation and tuition incident to attendance at the school to which they shall have been assigned."

It clearly appears from the last sentence of the above statute that regardless of an assignment of the pupil made in pursuance of this statute, the pupil may attend another high school and that if he does, the board of education of the district in which he lives, is liable for so much of his tuition in the school which he attends as it would be liable for in the school to which he is assigned.

In an opinion of my predecessor, which may be found in the Opinions of the Attorney General for 1932, page 683, it is held:

> "2. When a local district board of education contracts with another district board of education for the admission of any or all of its resident pupils into the school of such other district, in pursuance of Section 7734, General Code, or Section 7750, General Code, such contract is in effect an assignment of the pupils affected thereby to the schools of the other district.
>
> 3. Even though a high school pupil residing in a school district which does not maintain a high school, is assigned to a high school outside the district of his residence, the pupil may elect to attend another

high school, and the question of the liability of the board of education of the district of his residence for tuition in the high school which he elects to attend, and transportation to said high school, will be governed by the provisions of Sections 7764 and 7750 of the General Code of Ohio.

4. When a pupil residing in a school district which does not maintain a high school has been assigned to a high school outside the district, which is more than four miles from his residence, and transportation is furnished thereto and he elects to attend a high school other than the one to which he has been assigned, the board of education of the district of his residence is liable for so much of the cost of his tuition in the school which he chooses to attend, and of his transportation thereto as the said board would be required to pay for his tuition in the school to which he had been assigned and of his transportation thereto."

I am therefore of the opinion, in specific answer to your question, that the board of education of the "S" township rural school district is liable to the "M" board of education for the tuition of the pupil in question to the extent that it would have been required to pay tuition to the board of education maintaining the "B" high school, if the pupil had attended that school.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2257.

ESCHEAT—PERSONAL PROPERTY UNDER SECTION 8579, GENERAL CODE, SINCE REPEALED, DID NOT ESCHEAT TO STATE IF HEIR LIVING—HEIR RECEIVES MONEY HOW—COUNTY TREASURER MAY NOT PAY INTEREST THEREON.

SYLLABUS:

1. *The provisions of former Section* 8579, *General Code, since repealed, did not cause the title to a decedent's personal property to escheat to the state, when there was a living heir at the time of the demise even though he may be unknown to the administrator at the time of the closing of the administration proceedings.*

2. *When an administrator has filed his final account and has made a final distribution of the assets of a decedent's estate, by paying the residue of the funds in his hands to the prosecuting attorney as escheated to the state, pursuant to the provisions of former Section* 8579, *General Code, (since repealed) which funds have been paid into the general fund of the county where they still remain, if it be made to appear to the satisfaction of the probate court that there is a living heir of the decedent, the court may, pursuant to the authority of Sections* 11634 *et seq., General Code, vacate the former order of the court and order the funds paid to the heir.*

3. *There is no provision of law authorizing the payment of interest by the county treasurer on funds paid to him as escheated but subsequently claimed by an heir.*