perform which is dependent as to when and whether the obligation shall become absolute on the occurrence of an event, the happening of which is a matter of some uncertainty."

The legislature established the policy of the state in connection with said improvement when it passed House Bill No. 512, supra. This, however, did not place any liability, either contingent or otherwise, upon the state. After the plans, drawings, etc., as required by the act had been submitted to the Director of Highways and Public Works and he approved the same as provided therein, the surveyor was authorized to proceed to let the contract for the improvement. Within thirty days after the contract is let it is the duty of the Highway Director to issue his voucher as provided in Section 5 of the act, supra. After this approval was obtained the assessments against the land benefited were made by the proper authorities. In so doing they acted with the knowledge that the state had approved the plans and upon the theory that the state would pay one-fourth of the cost of the improvement, not to exceed forty thousand dollars. This was a material fact for consideration in making the assessments against the other property benefited.

It is my opinion that the approval of the plans as provided by law by the Director of Highways and Public Works created a contingent liability upon the part of the state to pay its portion of the cost of said improvement as provided in said act. It was therefore a "contingent liability" incurred in connection therewith. The amount thereof is uncertain, and whether or not the state would be finally obligated depends upon the letting of the contract. These are the contingencies in connection therewith. The obligation of the state would become absolute upon the letting of the contract, and should be paid if the funds are available for that purpose.

There is no other act required on the part of the state or any of its officers to fix its liability in connection with the proposed improvement. This contingent liability had been incurred previous to the passage of the appropriation act, supra, and it is my opinion that there were existing at the time the appropriation act was passed "contingent liabilities * * * lawfully incurred" in connection with the forty thousand dollar appropriation of House Bill No. 512, supra.

Therefore, under the facts stated, it is my opinion that the state is liable for its portion of the cost of the improvement of the Miami River as provided in House Bill No. 512, 111 Ohio Laws, p. 521, and the money therefor is available by virtue of the provisions of the first paragraph of section 2 of the General Appropriation Act (House Bill No. 502) of the 87th General Assembly.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1003.

DISAPPROVAL, BONDS OF THE VILLAGE OF PAULDING, PAULDING COUNTY, OHIO—$12,582.57.

Re: Bonds of the Village of Paulding, Paulding County, Ohio, $12,582.57.

COLUMBUS, OHIO, September 14, 1927.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

GENTLEMEN:—I have examined the transcript of the proceedings of council and

other officers of the Village of Paulding, relative to the above bond issue, and find that the transcript shows that the ordinance authorizing the issue of bonds was passed on July 5, 1927. The transcript further shows that the notice of the filing of assessments was not published until July 7, 1927, and that the assessing ordinance was not passed until August 15, 1927.

Section 3914, General Code, provides:

> "Municipal corporations may issue bonds in anticipation of the *collection* of special assessments. Such bonds may be in sufficient amount to pay that portion of the estimated cost of the improvement or service for which the assessments are levied. In the issuance and sale of such bonds the municipality shall be governed by all restrictions and limitations with respect to the issuance and sale of other bonds, and the assessments as paid shall be applied to the liquidation of such bonds. Municipal corporations may borrow money and issue notes, due and payable not later than two years from the date of issue, in anticipation of the *levy* of special assessments or of the issuance of bonds as provided in this section. The notes shall not exceed in amount that portion of the estimated cost of the improvement or service for which the assessment is levied. The proceeds of bonds issued in anticipation of the collection of assessments and all of the assessments collected for the improvement shall be applied to the payment of the notes and interest thereon until both are fully paid; and thereafter said assessments shall be applied to the payment of said bonds and interest thereon. Council ordinances and proceedings relating to the issuance of such bonds or notes shall not require publication."

It is the obvious purpose of this section to limit the amount of the bond issue to the actual cost of the improvement. In order to effectuate this purpose provision is made for temporary financing by the issuance of notes in anticipation of the *levy* of special assessments. The inference is plain that bonds cannot now be issued in anticipation of the levy, but only in anticipation of the collection of special assessments, and while the bond ordinance above referred to provides for an issue of bonds in anticipation of the collection of special assessments, it is obvious that until such special assessments have been made and filed and due notice thereof given, as required by law, it is impossible to issue bonds in anticipation of the collection thereof. For the above reasons, I am of the opinion that the bonds issued in pursuance of the ordinance passed July 5, 1927, are not legal and valid, and you are advised not to purchase the same.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1004.

APPROVAL, NOTE OF CLARIDON SPECIAL SCHOOL DISTRICT NO. 2, GEAUGA COUNTY, OHIO—$200.00.

COLUMBUS, OHIO, September 15, 1927.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.