bonds issued by a subdivision in accordance with the provisions of the Uniform Bond Act, due and payable prior to January 1, 1933, when in the hands of the person to whom originally issued or in the hands of a holder who acquired title thereto prior to January 1, 1933."

Consequently, it follows that bonds issued by a municipality in anticipation of the collection of special assessments, which bonds were due and payable on January 1, 1933, may be used, subject to the provisions of House Bill No. 94 of the 90th General Assembly, toward the payment of assessments due it and appearing on the 1933 duplicate, including delinquencies, provided the taxpayer, or the husband or wife of such taxpayer, had title to said bonds on January 1, 1933.

House Bill No. 70, passed by the second special session of the 90th General Assembly, which does not become effective until 90 days after May 8, 1934, provides in practically the same language, for the use of liquidated claims against a sub-division by a taxpayer, which were due and payable January 1, 1934, in payment of the portion of taxes owed by such taxpayer, appearing on the 1933 and subsequent duplicates, including delinquencies which are to be allocated to such sub-division. However, this Act in defining the phrase "liquidated claim", expressly excludes general and special assessment bonds. Whether, after said Act becomes effective, bonds may be used to pay taxes appearing on the 1933 duplicate, I now express no opinion.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2880.

TAXATION—LEVIES FOR INTEREST AND SINKING FUND OR BOND RETIREMENT NOT SUBJECT TO TEN MILL LIMITATION WHEN.

SYLLABUS:

Such portion of the levies for interest and sinking fund or retirement of bonds issued or authorized prior to January 1, 1931, *which was required prior to January* 1, 1934, *to be levied outside of the former constitutional* 15 *mill limitation to equalize a reduction in the amount of taxable property available for such purposes, which reduction resulted from laws passed after January* 1, 1931, *and prior to January* 1, 1934, *is not subject to the present* 1% *limitation so long as such reduction continues.*

COLUMBUS, OHIO, July 2, 1934.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

DEAR SIRS:—I acknowledge receipt of your communication in which you enclose a copy of a letter written by a village solicitor which reads in part as follows:

"My attention has been called to the opinion rendered by the Attorney-General upon December 21, 1933—No. 2044—in which he construes a provision contained in the schedule attached to the 1929 amendment of Section 2 of Article XII of the Constitution to mean that tax levies for interest and sinking fund or retirement of bonds issued or authorized prior to said date, shall be outside the fifteen mill limitation *'to the extent necessary to equalize'* any reduction in the amount of taxable property available for such levies, or in the rate imposed upon such property, when such reduction is effected through laws passed after such date.

While the Attorney-General does not refer to the subsequent amendment of Section 2 of Article XII, now in effect, known as the ten mill limitation, I have assumed that the above provision is continued in effect, as to future levies, by force of the provision in the schedule attached to the last amendment, viz:—

The following enumerated levies shall not be subject to the limitation of one percent established by such amendments: (1) All levies for interest and sinking fund or retirement of bonds issued or authorized prior to said date which are not subject to the present limitation of one and one-half per cent imposed by Section 2 of Article XII and the schedule thereto as approved by the electors of the state on November 5, 1929."

The opinion to which this letter refers and which applied to the former amendment of Section 2, Article XII of the Ohio Constitution and not to the present amendment, held as follows:

"Syllabus:

Where laws relating to taxation passed since January 1, 1931, have effected a reduction in the amount of taxable property available for levies by a school district for interest and sinking fund or retirement of bonds issued or authorized by it prior to such date within the statutory fifteen mill limitation, such levies may be outside the fifteen mill limitation now provided for in section 2, article XII of the Ohio Constitution, to the extent required to equalize such reduction."

The part of the schedule to the former amendment on which the above opinion was based reads as follows:

"* * * and levies for interest and sinking fund or retirement of bonds issued or authorized prior to said date, shall be outside of said limitation to the extent required to equalize any reduction in the amount of taxable property available for such levies, or in the rate imposed upon such property, effected by laws thereafter passed."

In that opinion it was pointed out that:

"Prior to the effective date of this amendment, all property, except that which was exempt from taxation, was required to be taxed by a uniform rule and according to its true value in money. Under this amendment, only land and improvements thereon need be so taxed and, in pursuance thereof, the legislature has passed law classifying intangible personal property so that different classes thereof are taxed at different rates, and also providing that certain kinds of tangible personal property shall be listed and assessed at certain percentages of its true value in money, to-wit: fifty per cent, seventy per cent and one hundred per cent. The legislature has further provided by section 5626-2 that wherever taxing authorities of a subdivision are authorized to levy taxes on the taxable property therein, 'such authority shall extend only to the levy of taxes on the taxable property listed on such general tax lists and duplicates and such taxing authorities shall not be authorized to levy taxes on the classified tax list and duplicate provided for by section 2587-1 of the General Code.'

Prior to the above amendment of section 2, Article XII, a bond issuing sub-division levied taxes on all the taxable property therein sufficient to pay the interest on and retire its bonds at maturity, while under section 5626-2 such levy now can only be made on the real, public utility and tangible personal property, so that, as a result of this enactment, intangible personal property is no longer available for levies by such subdivision.

* * *

Consequently, where such laws have effected a reduction in the amount of taxable property available for such levies, such levies may be made outside the fifteen mill limitation, but only to the extent required to equalize such reduction."

The schedule to the present amendment does not contain a similar provision as the provision in the schedule to the former amendment above quoted, but the schedule to the present amendment contains the provision quoted in the solicitor's letter, which in substance provides that all levies for interest and sinking fund or retirement of bonds, issued or authorized prior to January 1, 1934, which were not subject to the 15 mill limitation imposed by the former amendment and the schedule thereto, are not subject to the one per cent limitation of the present amendment. Consequently, where prior to January 1, 1934, levies outside the 15 mill limitation for interest and sinking fund or retirement of bonds were required to equalize such reduction in the amount of taxable property available for levies for such purposes, which reduction resulted from laws passed after January 1, 1931, such levies were not subject to the 15 mill limitation imposed by the former amendment and such levies which were not subject to such limitation are expressly exempted from the one per cent limitation by the schedule to the present amendment, so long as such reduction in the amount of taxable property available for such levies continues.

Therefore, I am of the opinion that such portion of the levies for interest and sinking fund or retirement of bonds issued or authorized prior to January 1, 1931, which was required prior to January 1, 1934, to be levied outside of the former constitutional 15 mill limitation to equalize a reduction in the amount of taxable property available for such purposes, which reduction resulted from laws passed after January 1, 1931, and prior to January 1, 1934, is not subject to the present 1% limitation so long as such reduction continues.

Respectfully,

JOHN W. BRICKER,

Attorney General.