

question. The most recent is the case of *State, ex rel. vs. Brown*, 112 O. S. 590, in which the first paragraph of the syllabus is as follows:

"House Bill No. 44 (111 O. L. p. 294) is a law providing for a tax levy and comes within the provisions of section 1d of Article II of the Constitution of Ohio, 'laws providing for tax levies * * * shall not be subject to the referendum'."

In Opinions of the Attorney General for the year 1929, Vol. I, page 587, the case of *State, ex rel. vs. Brown, supra*, was referred to as follows:

"In the case of *State ex rel. vs. Brown* (112 O. S. 590), it was held that said H. B. No. 44 (111 O. L. 294) was a law providing for a tax levy within the provisions of section 1d of Article II of the Constitution of Ohio and as such, went into immediate effect on its passage by the General Assembly, notwithstanding the objections of the Governor. Inasmuch as all of the sections of said act relating to excise tax other than the section thereof imposing the tax, were merely incident to the tax so levied in a definite way, and by way of providing for administrative measures with respect to the computation and collection of the tax, and by way of appropriations of the proceeds of said tax for the purposes for which the same was levied, the Supreme Court in the case above cited, held that the act itself, and not only the section thereof providing for the imposing of the tax, was exempt from the referendum reserved and provided for by section 1 and 1c of the State Constitution."

It is, of course, impossible to determine in advance whether or not any proposed legislative act will in its entirety be a "law providing for tax levies". If as a matter of fact the purpose of a section of the law is to provide revenue, it is not subject to referendum, whether such a law refers to the taxation for revenue purposes of intoxicating liquor or other substance.

In view of the decision of the Supreme Court in *State, ex rel. Brown, supra*, and the construction placed thereon by this office, it is my opinion that legislation providing for tax levies on the manufacture and sale of intoxicating liquors, which legislation repeals the Crabbe and Miller Acts in order to effectuate the imposition of such levies and which legislation provides the machinery for the administration of such a revenue law, may be so drawn as to go into immediate effect as a law providing for tax levies under Article II, section 1d of the Constitution, notwithstanding the fact that such law may not be passed as an emergency measure.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1934.

APPROVAL, BONDS OF WHITEHOUSE VILLAGE SCHOOL DISTRICT,
LUCAS COUNTY, OHIO—\$84,385.00.

COLUMBUS, OHIO, November 29, 1933.

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