

tution, which guarantees equal protection of the laws to all citizens. Taxation for the same thing according to the size of the operator is class legislation.

Upon the subject of arbitrary discrimination, the following language is pertinent—Ruling Case Law, Vol. 26, at page 260:

“The courts have not hesitated to strike down, as unconstitutional, excises purporting to establish a classification of subjects of taxation but which are really intended to drive out of business persons trading in a legitimate way but in such a manner as to outstrip their competitors, or which are intended to favor a particular class in the community.”

I am confronted with the decision of two courts of last resort upon questions substantially similar to those that are involved here. In each case the conclusion of the court was that the Legislature had exceeded constitutional bounds. In view of these authorities, and in spite of the fact that the courts and this department are required to approach questions of constitutionality with hesitancy and due regard to the power of the Legislature, I am constrained to the conclusion that the bill, if enacted into law, would be unconstitutional on the ground that the classifications for the purpose of taxation therein contained are without substantial basis and accordingly arbitrary, discriminatory and unreasonable.

Respectfully,
GILBERT BETTMAN,
Attorney General.

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APPROVAL, LEASE TO OFFICE ROOMS IN THE ULMER BUILDING AT
PUBLIC SQUARE, CLEVELAND, OHIO.

COLUMBUS, OHIO, April 6, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—There has been submitted by Hon. Ross Hedges, Assistant Director, Department of Industrial Relations, a lease granting to you, as Superintendent of Public Works, for the use of the Department of Industrial Relations, certain office rooms, as follows:

Lease from the Public Square Improvement Company of Cleveland, Ohio, for rooms 701 to 707, inclusive, in the Ulmer Building at Public Square, Cleveland, Ohio. This lease is for a term of twenty-one (21) months, beginning on the first day of April, 1929, and ending on the thirty-first day of December, 1930, by the terms of which the State will be required to pay three hundred and seventy-five dollars (\$375.00) per month on the first day of each and every month in advance.

You have also submitted encumbrance estimate No. 4817 of the Director of Finance, made in pursuance of Section 2288-2, General Code. In addition, a certificate is enclosed, signed by the secretary of the Public Square Improvement Company, to the effect that the president and secretary are authorized to enter into leases on behalf of said company, pursuant to its regulations.

Finding said lease in proper legal form, I hereby approve it as to form and return it herewith, together with all papers submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.