

following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for representatives on the basis of such enumeration according to ratios to be fixed by law."

This constitutional provision provides for an enumeration of the inhabitants of the State in the year 1895, 1905, 1915, 1925 and 1935. No enumeration was made in the year 1935. This section further provides that following such enumeration, and also at the session next following an enumeration made by the authority of the United States, a re-apportionment shall be made according to ratios to be fixed by law.

The legislature has power to apportion the representation at a session of the legislature under two conditions.

First: At a session after an enumeration in the year 1935.

Second: At the session next following an enumeration made by the authority of the United States.

Inasmuch as there was no enumeration by the State in the year 1935, and inasmuch as the present session of the legislature cannot be the next session following an enumeration, which was made in the year 1930 by the United States Government, therefore, this session of the legislature functioning in the year 1937, is not authorized to make a re-apportionment.

The history of legislation affecting apportionment shows that such enactments were made as follows, Enacted section I, Chapter 38, Laws 1911; amended Section I, Chapter 192 Laws 1921, reenacted Section 44 R. C. M., 1921, or Session Laws 1921, Chapter 192.

In other words, apportionments were made at sessions following Federal census.

Therefore, it is my opinion that House Bill No. 22 is in violation of Article 6, Section 2 of the Constitution of Montana, in that the proposed apportionment is not to be made at a session following either a State of Federal census.

#### Opinion No. 24.

#### Legislature—Appointments of Membership.

HELD: The Legislature may apportion its membership under the provisions of Art. VI, Sec. 2, of the State Constitution, only at the session next following enumeration by State or United States.

January 21, 1937.

Honorable Samuel Spiegel  
House of Representatives  
Capitol Building  
Helena, Montana

My dear Mr. Spiegel:

You have requested an opinion as to the constitutionality of House Bill No. 22, which bill relates to the apportionment of the Membership of the House of Representatives.

Article 6, Section 2 of the Constitution of the State of Montana provides:

Article 6, Section 2:

"The legislative assembly shall provide by law for an enumeration of the inhabitants of the state in the year 1895, and every tenth year thereafter; and at the session next