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HOUSE OF REPRESENTATIVES—SENATE—RATIO OF REPRESENTATION—GOVERNOR REQUIRED TO PUBLISH, FOUR CONSECUTIVE WEEKS, IN THREE NEWSPAPERS, CINCINNATI, CLEVELAND, COLUMBUS, NUMBER REPRESENTATIVES AND SENATORS EACH COUNTY OR DISTRICT ENTITLED TO ELECT, NEXT ENSUING TEN YEARS—SECTION 143 G.C.—CONSTITUTION OF OHIO, ARTICLE XI, SECTION 11.

SYLLABUS:

Under the provisions of Section 11 of Article XI, Constitution of the State of Ohio and Section 143, General Code, the Governor is required to cause to be published for four consecutive weeks in three newspapers, one in Cincinnati, one in Cleveland and one in Columbus, (1) the ratio of representation in the House of Representatives and the Senate, and (2) the number of representatives and senators each county or district is entitled to elect for the next ensuing ten years and for what years, immediately after both such determinations have been made by the Governor, Auditor and Secretary of State, or any two of them, in the manner and at the time prescribed in Article XI of the Constitution of Ohio.

Columbus, Ohio, July 30, 1941.

Hon. John W. Bricker, Governor of the State of Ohio,
Columbus, Ohio.

My dear Governor:

This will acknowledge receipt of your request for my opinion on the following:

“In conformity with the provisions of Article XI of the Constitution of Ohio, the Governor, the Auditor of State, and the Secretary of State have ascertained and determined the ratio of representation in the General Assembly according to the Sixteenth Federal Census, the number of representatives each county shall be entitled to elect, the number of senators to be elected in each senatorial district or combination of such districts, and for what years such elective officers are to serve within the next ensuing ten years.

The Constitution also provides that the Governor shall cause said apportionment to be published in such manner as shall be directed by law. The requirements for publication are set forth in Section 143 of the General Code of Ohio which reads as follows:

'The Governor shall cause the apportionment for senators and representatives in the General Assembly, as made each decennial period, to be published immediately after the making thereof for four consecutive weeks in three newspapers, one in Cincinnati, one in Cleveland, and one in Columbus.'

We desire your opinion on the question whether Section 143 of the General Code of Ohio contemplates publication of the apportionment in full or whether it contemplates publication of the fact that an apportionment has been made, together with a summary of the provisions thereof."

Your inquiry is prompted by Section 11 of Article XI of the Constitution of Ohio, which provides as follows:

"The Governor, Auditor, and Secretary of State, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and, at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of Representatives and Senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the Governor shall cause the same to be published, in such manner as shall be directed by law."

It will be noted that the Governor is required to cause a publication to be made. Publication of what? In the words of the constitutional provision, "the Governor shall cause *the same* to be published." From an examination of the section in question it would appear that "the same" refers to those acts which must be performed by the Governor, Auditor and Secretary of State, or any two of them, i.e., the ascertainment and determination of (1) the ratio of representation in the House of Representatives and Senate, and (2) the number of representatives and senators each county or district is entitled to elect for the next ensuing ten years and for what years. The method of ascertainment of the ratios of representation of each house of the General Assembly is prescribed in Sections 1 and 6 of Article XI of the Constitution of Ohio. The provisions for the determination of the number of representatives and senators to which each county or district is entitled are contained in the remaining sections of said Article XI.

The manner of the publication required by the Constitution has been prescribed by the Legislature in Section 143, General Code, which is quoted in full in your letter and will, therefore, not be repeated.

This section speaks of the publication of "the apportionment." It is not clear what is meant by that expression and I do not believe an extended discussion thereof is required by reason of the fact that the constitutional mandate above explained is controlling with respect to the contents of the required publication. Section 143, *supra*, was enacted, pursuant to the requirements of Section 11 of Article XI, *supra*, to direct by law the manner of publication. It is controlling only to that extent.

Before concluding it might be pointed out that both Section 11 of Article XI, *supra*, and Section 143, *supra*, are silent with respect to the form of publication. It would, therefore, appear that such matter rests in the sound discretion of the Governor providing, of course, the form adopted contains the information required by the Constitution as above explained.

In specific answer to your inquiry, it is my opinion that under the provisions of Section 11 of Article XI, *supra*, and Section 143, *supra*, the Governor is required to cause to be published for four consecutive weeks in three newspapers, one in Cincinnati, one in Cleveland and one in Columbus, (1) the ratio of representation in the House of Representatives and the Senate, and (2) the number of representatives and senators each county or district is entitled to elect for the next ensuing ten years and for what years, immediately after both such determinations have been made by the Governor, Auditor and Secretary of State, or any two of them, in the manner and at the time prescribed in Article XI of the Constitution of Ohio.

Respectfully,

THOMAS J. HERBERT,
Attorney General.