

CONSTITUTIONAL LAW: Members of General Assembly privileged from arrest except for cases of treason, felony or breach of the peace, during the session of the General Assembly and for the fifteen days next before the commencement and after the termination of each session.

GENERAL ASSEMBLY:



April 8, 1953

Representatives Russell Corn and
Pascal G. Bryant
Room 314, House Post Office
Capitol Building
Jefferson City, Missouri

Gentlemen:

Reference is made to your request for an official opinion of this department, reading as follows:

"We want to know if a member of the Missouri Legislature can be arrested for speeding or if a stop light is run. This is going to and from the session of the Legislature, and we also want to know if the exemption is just while the Legislature is in session or for our term."

Your attention is directed to Section 19 of Article III of the Constitution of Missouri, 1945, which reads as follows:

"Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in either house in any other place."

It is apparent from the foregoing constitutional provision that members of the General Assembly are privileged from arrest for the period mentioned therein, except in

Representatives Corn and Bryant

cases involving the enumerated offenses.

You have mentioned "speeding" and what is commonly called "running a stop light" in your letter of inquiry. Of course, neither of these offenses amounts to "treason" or "felony." It, therefore, remains to be determined whether or not either of such offenses constitutes a "breach of the peace."

The meaning of the phrase "breach of the peace" as used in statutes and constitutional provisions similar to that under consideration, and under the common law, has been enunciated by the appellate courts repeatedly. In particular we direct your attention to *City of Louisiana v. Bottoms*, 300 S.W. 316, l.c. 317, from which we quote:

"In general terms, a breach of the peace is a violation of public order and decorum, or a disturbance of the public tranquillity, by any act or conduct inciting to violence, or tending to provoke or excite others to break the peace. *City of St. Louis v. Slupsky*, supra; *City of Plattsburg v. Smarr* (Mo. App.) 216 S.W. 538; 9 C.J. 386; 8 R.C.L. page 284, Sec. 305. * * * "

With this definition of the phrase in mind, we are led to believe that neither of the offenses mentioned in your letter of inquiry amounts to a "breach of the peace."

CONCLUSION

In the premises, we are of the opinion that members of the General Assembly are privileged from arrest except for cases of treason, felony or breach of the peace, for the period during which the General Assembly is in session and for fifteen days next before the commencement and after the termination of each session.

We are further of the opinion that "speeding" and "running a stop light" are neither offenses comprehended within the phrase "breach of the peace."

Representatives Corn and Bryant

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

WFB:lrt