

GENERAL ASSEMBLY:
EXPENSES:

Under provisions of 16a, Article III of the Constitution, a member of the General Assembly is entitled to reimbursement for actual and necessary expenses as reported to the proper officers and certified to the state comptroller in an amount up to and including ten dollars per day.



March 5, 1953

Honorable William Pittman
Representative, DeKalb County
Missouri House of Representatives
Jefferson City, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this office which request reads as follows:

"Section 16a, Article III of the Constitution as adopted by the people in November 1952 first recites that members of the general assembly shall be reimbursed for their expenses and then it requires payment of 'such expense allowance' upon certification by certain officers. Now, it is obvious that such officers have knowledge of and can certify only to the presence or absence of the various members of the general assembly; they cannot possibly know or certify to the amount of the actual expenses of any such member. Yet, the comptroller is required to approve and the treasurer to pay the amount of such expense allowance upon the certification. Moreover, such payments are to be made 'without legislative enactment', which would seem to indicate that the provision as to payment, at least, is self-executing.

"Under such circumstances I wish to request that you give me your opinion as to whether or not, upon certification of the proper officers,

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the payment of a flat allowance of ten dollars for expenses to each member of the general assembly is required. If the payment of a flat allowance is not required, I will appreciate your expression as to the proper construction to be given this constitutional provision."

Section 16a of Article III of the Constitution of Missouri, adopted November 4, 1952, as part of Constitutional Amendment No. 1, submitted at the election held on that date, provides as follows:

"Each senator or representative shall be reimbursed from the state treasury for the actual and necessary expenses incurred by him in attending sessions of the General Assembly and which do not exceed the sum of ten dollars (\$10.00) per day for each day on which the first roll call, following the opening prayer, in the Journal of the Senate or House respectively, shows the presence of such senator or representative. Upon certification by the president and secretary of the Senate and by the Speaker and chief clerk of the House of Representatives as to the respective members thereof, the state comptroller shall approve and the state treasurer shall pay monthly such expense allowance without legislative enactment. No such reimbursement shall be paid to any senator or representative for any day of a regular session after May 31 following the convening of the General Assembly in regular session on the first Wednesday after the first day of January following each general election, nor for any day after the sixtieth calendar day following the date of its convening in special session."

(Emphasis ours.)

You inquire whether or not a member of the General Assembly is entitled to a "flat allowance of ten dollars" per day for actual and necessary expenses upon a certification to the proper official by designated officers as to his presence at the first roll call following the opening prayer. In other words, is a member entitled to ten dollars per day merely upon certification as to his presence.

In answering this question we would first call attention to certain rules of constitutional construction. First, words used in the Constitution are presumed to have been employed in their natural and ordinary meaning, State ex rel. Randolph County v. Walden, 357 Mo.

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167; second, the intent and purpose of lawmakers is of primary importance in determining the true meaning and scope of constitutional provisions, *Graves v. Purcell*, 337 Mo. 574; and third, the meaning apparent on the face of the Constitution is controlling and no forced or unnatural construction is permissible, *State ex rel. Heimberger v. Board of Curators*, 268 Mo. 598.

You will note that Section 16a of Article III provides that the members of the General Assembly shall be reimbursed for actual and necessary expenses and reading further it states that no such reimbursement shall be paid after certain dates. The term "expense" is defined in Webster's New International Dictionary, Second Edition, as follows: "That which is expended, laid out, or consumed, * * *." The term "reimburse" is defined in 36 Words and Phrases, as follows:

"'Reimburse' means to pay back that, which has been expended. *Lyons v. Moise's Ex'r*, 183 S.W. 2d 493, 495, 298 Ky. 858.

"Reimburse means to refund, to place in treasury or private coffer that which has been taken, lost or expended, to pay back to, to render an equivalent, to repay to. *Pasternak v. Thrift Inv. Co.*, Ohio Com. Pl., 104 N. E. 2d 712, 715."

Applying the ordinary and natural meanings of these terms as above noted and in light of the above indicated rules of constitutional construction, we believe that it is quite clear that the purpose of this constitutional provision is for the purpose of paying back to the members of the General Assembly that which they have paid out as actual and necessary expenses incurred by them in attending sessions, subject to the limitation that such expenses shall not exceed ten dollars per day and that the members are not entitled to said amount unless it is actually expended. Therefore, the amount of such authorized expenditures, if the member desires reimbursement, would have to be reported to the proper officers in order that a certification might be made to the state comptroller as provided.

CONCLUSION

Therefore it is the opinion of this office that under the provisions of Section 16a of Article III of the Constitution of Missouri, adopted November 4, 1952, a member of the General Assembly who answers the first roll call is entitled to reimbursement for his actual and necessary expenses as certified by the proper officers to the state comptroller in the sum not to exceed ten dollars for each day he so answers and that a member is not entitled to ten dollars per day unless such amount was expended as authorized.

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The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. D. D. Guffey.

Very truly yours,

JOHN M. DALTON
Attorney General

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