

1983 WL 181837 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 7, 1983

\*1 Mr. Ronald J. Vaughn  
Lexington Town Recorder  
P. O. Box 397  
Lexington, SC 29072

Dear Mr. Vaughn:

In a letter to this Office you indicated that a defendant in a traffic case requested that his case be dismissed pursuant to the provisions of [Section 14-1-140, Code of Laws of South Carolina](#), 1976. The defendant, who is an attorney, was cited for speeding while driving to a roster meeting.

The referenced statute provides that:

‘[a]ll persons necessarily going to, attending on, or returning from, the courts of record of this State shall be free from arrest, except on criminal process for treason, felony, or breach of the peace. Thirty miles per day shall be allowed such persons for traveling.’

In a previous opinion of this Office dated December 21, 1979, a copy of which is enclosed, it was determined that the language of [Article III, Section 14 of the South Carolina Constitution](#), which grants certain immunity to members of the General Assembly, fails to provide constitutional immunity to a legislator as to any criminal offense for which he may be charged. The referenced constitutional provision states that the immunity granted legislators ‘. . . shall not protect any members who shall be charged with treason, felony or breach of the peace.’ The opinion stated that speeding, as a criminal misdemeanor in this State, constitutes a breach of the peace as used in the constitutional provision. The opinion concluded, therefore, that there was no immunity to a legislator from being stopped for, charged with, and convicted of speeding.

The referenced opinion also states that the language:

‘. . . ‘treason, felony, and breach of the peace’ encompasses all crimes, whatever their technical classification. Such language historically has been deemed to ‘confer a privilege . . . only in civil cases, since the quoted words of exception are broad enough to include all crimes within the exception of the privilege.’

The opinion also references several cases where it was concluded that the immunity granted by such referenced language concerns only immunity from civil process.

I am unaware of any decision by courts in this State specifically interpreting [Section 14-1-140](#), *supra*. However, consistent with above discussion of immunity from civil process, the cases which are noted in the Case Notes following such section, while not interpreting such statute, do pertain to immunity from civil process.

Referencing the above, it appears that the conclusion of this Office in the referenced opinion that legislators are not immune from being charged with a traffic offense pursuant to language denying any immunity where the legislator is charged with treason, felony, or breach of the peace should be equally applicable to an interpretation of [Section 14-1-140](#), *supra*. Therefore, the ticket charging Mr. Butler with speeding should not be dismissed inasmuch as speeding would constitute a breach of the peace for which no immunity is available pursuant to [Section 14-1-140](#), *supra*.

\*2 If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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