

J. Y. Interpretation No.122 (July 5, 1967) *

ISSUE: Does the Constitution provide legislative immunity for a speech or debate given by legislators of the local governments during their attendance at a legislative session?

RELEVANT LAWS:

Interpretation Yuan-je Tze No. 3735 (司法院院解字第三七三五號解釋) .

KEYWORDS:

legislators (議員) , unlawful speech (不法言論) , the legislative session (議會會議) , legislative affairs (議會事項) , legislative immunities (議員言論免責權) .**

HOLDING: The Constitution does not explicitly provide legislative immunity for a speech or debate given by legislators of the local governments during their attendance at a legislative session. Thus, the Interpretation Yuan-je Tze No.3735, which states that county legislators will be held liable for an unlawful speech they give during their attendance at a legislative session even if such a

解釋文：地方議會議員在會議時所為之言論，應如何保障，憲法未設有規定。本院院解字第三七三五號解釋，尚不發生違憲問題。

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speech was irrelevant to the legislative affairs, remains constitutional and valid.

REASONING: The Constitution does not explicitly provide legislative immunity for a speech or debate given by legislators of the local governments during their attendance at a legislative session. The Interpretation Yuan-je Tsu No.3735, which states that county legislators will be held liable for an unlawful speech they give during their attendance at a legislative session even if such a speech was irrelevant to the legislative affairs, refers to those legislators who intentionally abuse their legislative immunity during their attendance at a legislative session. Thus, the Interpretation Yuan-je Tsu No.3735 remains constitutional and valid. If members of the provincial council, county councils and city councils do not intentionally abuse their legislative immunity, a speech or debate they give during their attendance at the legislative session will be protected.

解釋理由書：憲法對於地方議會議員在會議時所為之言論，應如何保障，並未設有規定。本院院解字第三七三五號解釋，係對縣參議員在會議時濫用言論免責權者而發。尚不發生違憲問題。省縣市議會議員如無濫用情事，其言論之保障，自不受影響。