

J. Y. Interpretation No.254 (March 16, 1990) *

ISSUE: Is a delegate of the National Assembly who has sworn an oath contrary to the manner or the wording stipulated under the Organic Act of the National Assembly still eligible to perform his/her duty as a delegate of the National Assembly?

RELEVANT LAWS:

Article 34 of the Constitution (憲法第三十四條) ; Article 4 of the Organic Act of the National Assembly (國民大會組織法第四條) ; Articles 3 to 7 of the Oath Act (宣誓條例第三條至第七條) .

KEYWORDS:

the National Assembly (國民大會) , an oath (宣誓) .**

HOLDING: The provision for an oath in Article 4 of the Organic Act of the National Assembly is an oath to perform official duties. The Judicial Yuan has issued Interpretation No. 199 on this issue. A delegate of the National Assembly who has failed to swear an oath or intentionally sworn an oath contrary to the manner or the wording stipulated under the Act is

解釋文：國民大會組織法第四條規定之宣誓，係行使職權之宣誓，業經本院釋字第一九九號解釋釋示在案，國民大會代表未為宣誓或故意不依法定方式及誓詞完成宣誓者，自不得行使職權。本院上開解釋，應予補充。

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not eligible to perform his/her duty as a delegate of the National Assembly. Thus, Interpretation No. 199 issued by the Judicial Yuan shall be read in line with this Interpretation.

REASONING: The petitioner of Interpretation No. 199 applied for a supplemental interpretation on the grounds that Interpretation No. 199 does not satisfactorily conclude the issue. In accordance with the holding of Interpretation No. 27 and the reasoning of Interpretations Nos. 82, 147, and 165, the Judicial Yuan should issue a supplemental interpretation.

Article 4 of the Organic Act of the National Assembly, which is authorized by Article 34 of the Constitution, provides, “Delegates to the National Assembly shall swear an oath at the commencement of the meetings of the National Assembly in the following words: ‘I solemnly swear that I will abide by the Constitution and will follow the law in exercising my authority in representing the people of the Republic of China’.” The

解釋理由書：本件聲請機關係以其對本院釋字第一九九號解釋，尚有疑義，聲請補充解釋，揆諸本院釋字第二十七號解釋意旨，並參照釋字第八十二號、第一百四十七號、第一百六十五號等解釋理由，應予受理，合先說明。

國民大會代表之宣誓，依中華民國憲法第三十四條授權制定之國民大會組織法第四條規定：「國民大會代表，於國民大會舉行開會式時，應行宣誓，其誓詞如左：某某謹以至誠，恪遵憲法，代表中華民國人民依法行使職權，謹誓，國民大會代表宣誓後，應於誓詞簽名」，旨在使宣誓人鄭重公開表示其恪遵憲法，盡忠職務，代表全國國民依法行使職權之決心與誠意，俾昭信守。此項宣誓，依本院釋字第一九九號解

oath is a public announcement to show the determination and honesty of the delegates to comply with the Constitution and perform their duties faithfully on behalf of the people of the Republic of China in accordance with the law. In accordance with Interpretation No. 199, the oath described in Article 4 of the Organic Act of the National Assembly is an oath to perform official duties. The oath is a formal act under the Public Laws with specific requirements. In addition to the wording of the oath stipulated in the above Article, the process and manner of the oath shall fulfill the requirements stipulated in Articles 3 to 7 of the Oath Act. A delegate who does not swear an oath, and thereby neglects his/her duty, shall not be eligible to perform his/her duty as a delegate of the National Assembly. In addition, in the event that there is clear evidence to prove that a delegate has intentionally sworn an oath contrary to the process or the wording stipulated by law, no valid oath exists. The effect is as if an oath had never been sworn. Therefore, the delegate shall not be eligible to perform his/her duty as a delegate of the National Assembly. Interpreta-

釋，係屬行使職權之宣誓。上述宣誓係公法上之要式行為，除誓詞由前開法條明文規定外，其程序及方式，應依宣誓條例第三條至第七條之規定。國民大會代表未為宣誓，違反宣誓之義務，固不得行使職權，如有明確之事證足認其於宣誓時，故意不依法定方式及法定誓詞為之者，不能認已踐行該項法定要式行為，與未宣誓同，自亦不得行使職權。本院上開第一九九號解釋，應予補充。

tion No. 199 issued by the Judicial Yuan shall be read in line with this Interpretation.

In addition, the issue of whether a delegate who has failed to swear an oath is entitled to attend the meetings of the National Assembly shall be decided by the National Assembly according to its self-governing rules.

至未依法宣誓之國民大會代表，可否出席會議問題，應由國民大會本議會自律之原則自行處理，併此敘明。