

J. Y. Interpretation No.15 (April 24, 1953) *

ISSUE: May a member of the Control Yuan concurrently serve as a delegate of the National Assembly?

RELEVANT LAWS:

Articles 27, 100 and 103 of the Constitution (憲法第二十七條、第一百條及第一百零三條) .

KEYWORDS:

concurrent occupation (兼任) , Control Yuan (監察院) , Legislative Yuan (立法院) , National Assembly (國民大會) .**

HOLDING: It is a public duty for Delegates to the National Assembly to discharge their political power on behalf of the nationals. In accordance with Article 103 of the Constitution, no Members of the Control Yuan may concurrently hold another public office. Articles 100 and 27 distinguish the impeachment and recall of the President and Vice President, which are discharged by the Control Yuan and the National Assembly, respectively.

解釋文：國民大會代表代表國民行使政權，自係公職。依憲法第一百零三條之規定，監察委員不得兼任。查憲法第一百條及第二十七條，將對於總統、副總統之彈劾與罷免劃分，由監察院與國民大會分別行使，若監察委員得兼任國民大會代表，由同一人行使彈劾權與罷免權，是與憲法劃分其職權之原意相違，其不應兼任更屬明顯。再查憲法草案第二十六條第一款及第二款，原列立法委員、監察委員得為國民大會代

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It contradicts the original intent of the Constitution to distinguish and separate these powers if a Member of the Control Yuan were to concurrently serve as a Delegate to the National Assembly, which amounts to having the same individual exercise the power of impeachment and recall. It is all the more clear that there should not be concurrent occupation of both offices. Further evidence on the prohibition of concurrent occupation [of offices] can be found [in the legislative process]. Article 26, Subparagraphs 1 and 2, of the Constitution Draft initially provided that any Member of the Legislative Yuan or Control Yuan may concurrently serve as a Delegate to the National Assembly. Many [Constitutional Conference] Delegates considered this improper and filed several amending bills, with the result that the Constitutional Conference eventually consolidated the opinions of the Review Committee and deleted the two Subparagraphs.

表，嗣有代表多人，認為於理無當，提出修正案若干起，制憲大會依綜合審查委員會之意見，將該條第一、第二兩款刪去，亦可為不得兼任之佐證。