

J. Y. Interpretation No.56 (November 21, 1955) \*

**ISSUE:** May a public functionary, upon being sentenced with deprivation of civil rights but the principal punishment so imposed thereon being suspended, continuously serve as such during the period of probation?

**RELEVANT LAWS:**

Article 74 and 85 of the Criminal Code (刑法第七十四條及第八十五條) ; Article 17 of the Public Functionaries Appointment Act (公務人員任用法第十七條) .

**KEYWORDS:**

public functionary (公務員) , deprivation of citizen's right (褫奪公權) , primary sentence (主刑) , suspension of punishment (緩刑) .\*\*

**HOLDING:** Unless other limitations apply by law to a public functionary, a public functionary who has been sentenced for deprivation of a citizen's right is allowed to continue to serve during the period of probation with primary sentence reduced to suspension of punishment.<sup>1</sup>

**解釋文：**公務員被判褫奪公權，而其主刑經宣告緩刑者，在緩刑期內，除別有他項消極資格之限制外，非不得充任公務員。

\* Translated by Lawrence L. C. Lee.

\*\* Contents within frame, not part of the original text, are added for reference purpose only.

<sup>1</sup> According to Article 36 states that deprivation of citizen's rights is deprivation of the following categories of qualification: (1) qualification as a public official; (2) qualification as a candidate for public office; and (3) qualification for the exercise of the four rights of election, recall, initiative, and referendum.