

J. Y. Interpretation No.85 (February 12, 1960) *

ISSUE: What is the basis for calculating the total number of delegates to the National Assembly?

RELEVANT LAWS:

Articles 30 and 174 of the Constitution (憲法第三十條、第一百七十四條) .

KEYWORDS:

National Assembly (國民大會), total number of Delegates (代表總額) .**

HOLDING: Under the current circumstances, the “total number of National Assembly Delegates” as provided for in the Constitution shall be calculated based on the number of those delegates who were elected in accordance with the laws and are still able to convene.

解釋文：憲法所稱國民大會代表總額，在當前情形，應以依法選出而能應召集會之國民大會代表人數為計算標準。

REASONING: This Interpretation arises from two separate petitions by the Executive Yuan and the Secretariat of the National Assembly. Both petition-

解釋理由書：本件准行政院及國民大會秘書處先後以國民大會代表不能改選，其出缺者亦多無可遞補，國民大會第三次會議行將集會，即需依據國

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ers argue that it is infeasible to hold the reelection of the National Assembly Delegates and extremely difficult to fill most vacancies with substitutes. However, the Third Meeting of the National Assembly is soon to convene and the “total number of National Assembly Delegates” is the basis for fixing the quorum. Both petitioners therefore petitioned for constitutional interpretation to clarify such question. This Council finds that, at both the First and Second Meetings of the National Assembly, the “total number of National Assembly Delegates” as required in both the Constitution and relevant laws was calculated based on the “number of those delegates that shall be elected in accordance with the laws.” Nevertheless, our state has lost the territory of the Chinese mainland and undergone tremendous changes for more than a decade. Many delegates have lost their freedom to move and can no longer attend the meetings. We are also unable to fill those vacancies with substitutes. Undoubtedly, all of the institutions established by the Constitution are supposed to exercise their respective powers. The framers of the Constitution

民大會代表總額計算集會人數，對於國民大會代表總額之計算標準發生疑義聲請解釋。查憲法及法律上所稱之國民大會代表總額在國民大會第一次會議及第二次會議時雖均以依法應選出代表之人數為其總額，但自大陸淪陷國家發生重大變故已十餘年，一部分代表行動失去自由，不能應召出席會議，其因故出缺者又多無可遞補，而憲法所設立之機構原期其均能行使職權，若因上述障礙致使國民大會不能發揮憲法所賦予之功能，實非制憲者始料所及，當前情況較之以往既顯有重大變遷，自應尊重憲法設置國民大會之本旨，以依法選出而能應召在中央政府所在地集會之國民大會代表人數為國民大會代表總額，其能應召集會而未出席會議者，亦應包括在此項總額之內。

certainly did not intend that circumstances such as the above might prevent the National Assembly from exercising its functions as granted by the Constitution. Since the present situation is very different from those in the past, we should respect the purposes of the Constitution in establishing the National Assembly. Therefore, the “total number of National Assembly Delegates” shall be calculated based on the number of those delegates who were elected in accordance with the laws and are still able to convene at the location of the Central Government. Those delegates who are able to convene but fail to attend the meetings shall be counted in fixing such a total number.