

J. Y. Interpretation No.117 (November 9, 1966) *

ISSUE: During national turmoil, is it contradictory to the Constitution to declare and replace vacant seats in the National Assembly without going through the election and recall process?

RELEVANT LAWS:

Article 3, Subparagraph 1 and Article 4 of the Act Governing Replacement of Any Vacant Seat of the First Term National Assembly (第一屆國民大會代表出席遞補補充條例第三條第一款及第四條).

KEYWORDS:

replacement of vacant seat (遞補), National Assembly (國民大會). **

HOLDING: The provisions of Article 3, Subparagraph 1, and Article 4 of the Act Governing Replacement of Any Vacant Seat of the First Term National Assembly are not inconsistent with the Constitution.

REASONING: Article 34 of the Constitution stated that the election and

解釋文：第一屆國民大會代表出席缺遞補補充條例第三條第一款及第四條之規定，與憲法尚無抵觸。

解釋理由書：憲法第三十四條明定國民大會代表之選舉罷免，以法律

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recall of the National Assembly delegates should be provided by law. The Act Governing Replacement of Any Vacant Seat of the First Term National Assembly (hereinafter the "Act") is a supplementary provision to the Act Governing the Election and Recall of the National Assembly Delegates and its Enforcement Act. Article 3, Subparagraph 1, of the Act provided that if a delegate has not reported to office for three years, and has not made timely appearance after a notice of appearance was published, his or her seat shall be deemed vacant for cause. Article 4 of the Act provided that if this happened with a replacement delegate, he or she should also be disqualified. These provisions were adopted to meet the needs of the nation after the central government moved to Taiwan. They are not inconsistent with pertinent provisions of the Constitution.

定之。第一屆國民大會代表出缺遞補補充條例係國民大會代表選舉罷免法及同法施行條例之補充規定。其第三條第一款所定行蹤不明三年以上，並於政府公告期限內未向指定機關親行聲報者視同因故出缺，第四條所定候補人有此情形者喪失其候補資格，乃因中央政府遷臺後，為適應國家之需要而設，與憲法有關條文尚無牴觸。