

J. Y. Interpretation No.573 (February 27, 2004) *

ISSUE: Are the relevant provisions of the Act of the Supervision of Temples, prescribing that the disposition or modification of certain temples' real properties shall be approved by the authorities-in-charge, unconstitutional?

RELEVANT LAWS:

Articles 7, 13, 15, 23 and 170 of the Constitution (憲法第七條、第十三條、第十五條、第二十三條、第一百七十條); J. Y. Interpretations Nos. 65, 200, 445, 490 and 491 (司法院釋字第六十五號、第二〇〇號、第四四五號、第四九〇號、第四九一號解釋); Articles 1, 2, Paragraph 1, and 3, 8 of the Act of the Supervision of Temples (監督寺廟條例第一條、第二條第一項、第三條、第八條); Articles 2, 5, Subparagraph 2, and 6 of the Standard Act for the Laws and Rules (中央法規標準法第二條、第五條第二款、第六條).

KEYWORDS:

principle of superiority of law (法律優越原則), principle of reservation of law (*Gesetzesvorbehalt*) (法律保留原則), freedom of religious belief (信仰宗教自由), freedom of religious association (宗教結社之自由), principle of religious equality (宗教平等原則), principle of religious neutrality (宗教中立原則), property right (財產權), principle of clarity and definiteness of law (法律明確性原則), principle of proportionality (比例原則).**

* Translated by Vincent C. Kuan.

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

HOLDING: Article 1 of the Standard Act for the Laws and Rules as promulgated by the National Government on May 14, 1929 (hereinafter referred to as the “former Standard Act for the Laws and Rules”) provided, “Any legislative bill passed by the Legislative Yuan through the third reading procedure and promulgated by the National Government shall be denominated as an act.” Article 2, Subparagraph 3, thereof said that any matter involving the rights and obligations of the people, in respect of which the Legislative Yuan deems it necessary to prescribe by law, should be proposed in the form of a legislative bill, to be passed by the Legislative Yuan through the third reading procedure. Furthermore, Article 3 thereof provided, “The enactment of any statute, by-law or regulation shall be made pursuant to law.” Judging from the foregoing provisions, the requirements of the principles of superiority, as well as reservation, of law had been implied in the legal system during the early period of political tutelage prior to the implementation of the Constitution. However, a matter involving the rights and obligations of the

解釋文：依中華民國十八年五月十四日國民政府公布之法規制定標準法（以下簡稱「前法規制定標準法」）第一條：「凡法律案由立法院三讀會之程序通過，經國民政府公布者，定名為法。」第二條第三款所稱，涉及人民權利義務關係之事項，經立法院認為有以法律規定之必要者，為法律案，應經立法院三讀會程序通過之，以及第三條：「凡條例、章程或規則等之制定，應根據法律。」等規定觀之，可知憲法施行前之訓政初期法制，已寓有法律優越及法律保留原則之要求，但有關人民之權利義務關係事項，亦得以未具法律位階之條例等規範形式，予以規定，且當時之立法院並非由人民直接選舉之成員組成。是以當時法律保留原則之涵義及其適用之範圍，均與行憲後者未盡相同。本案系爭之監督寺廟條例，雖依前法規制定標準法所制定，但特由立法院逐條討論通過，由國民政府於十八年十二月七日公布施行，嗣依三十六年一月一日公布之憲法實施之準備程序，亦未加以修改或廢止，而仍持續沿用，並經行憲後立法院認其為有效之法律，且迭經本院作為審查對象在案，應認其為現行有效規範人民權利義務之法律。

people could also be prescribed by rules not having the status of a law, and members of the Legislative Yuan were not directly elected by the people at the time. Therefore, the denotation of the principle of reservation of law (*Gesetzesvorbehalt*) and the scope of application of such principle were not exactly the same as what we have known since the Constitution was put into effect. The Act of the Supervision of Temples at issue was enacted pursuant to the former Standard Act for the Laws and Rules, but was passed by the Legislative Yuan after an article-by-article review and discussion, and promulgated and implemented by the National Government on December 7, 1929. Subsequently, despite the promulgation of the preparatory procedure for the implementation of the Constitution on January 1, 1947, the Act at issue remained unchanged or un-repealed and continues to be applied today. Moreover, not only the post-Constitution Legislative Yuan also considered it a good law, this Yuan has repeatedly reviewed it in various cases on record. Hence it should be regarded as an existing and effective law that regulates

人民之宗教信仰自由及財產權，均受憲法之保障，憲法第十三條與第十五條定有明文。宗教團體管理、處分其財產，國家固非不得以法律加以規範，惟應符合憲法第二十三條規定之比例原則及法律明確性原則。監督寺廟條例第八條就同條例第三條各款所列以外之寺廟處分或變更其不動產及法物，規定須經所屬教會之決議，並呈請該管官署許可，未顧及宗教組織之自主性、內部管理機制之差異性，以及為宗教傳布目的所為財產經營之需要，對該等寺廟之宗教組織自主權及財產處分權加以限制，妨礙宗教活動自由已逾越必要之程度；且其規定應呈請該管官署許可部分，就申請之程序及許可之要件，均付諸闕如，已違反法律明確性原則，遑論採取官署事前許可之管制手段是否確有其必要性，與上開憲法規定及保障人民自由權利之意旨，均有所牴觸；又依同條例第一條及第二條第一項規定，第八條規範之對象，僅適用於部分宗教，亦與憲法上國家對宗教應謹守中立之原則及宗教平等原則相悖。該條例第八條及第二條第一項規定應自本解釋公布日起，至遲於屆滿二年時，失其效力。

certain rights and obligations of the people. The freedom of religious belief and property right of the people are both guaranteed under the Constitution, as clearly provided for under Articles 13 and 15 thereof, respectively. The State is not barred from regulating, by means of law, the management or disposition of the property owned by a religious group. In doing so, however, the principles of proportionality and clarity of law under Article 23 of the Constitution should be complied with. Article 8 of the Act of the Supervision of Temples provides that, with respect to any kind of temple not listed in Article 3 thereof, the disposition or modification of its real properties or ritual objects shall be made by means of a resolution reached by the religious society to which such temple belongs and subject to approval by the authorities-in-charge. Such provision, in putting restraints on the autonomy and property right of such religious organizations, fails to give considerations to the autonomy of a religious organization, differences in internal management mechanisms among such organizations, as well as their needs to manage

properties for purposes of missionary work or preaching. As a result, more than necessary restrictions have been placed upon religious activities. Furthermore, in respect of the approval by the authorities-in-charge, the procedure and requirements for relevant applications are wanting, which is against the principle of clarity and definiteness of law, not to mention whether it is indeed necessary to adopt prior approval by a government agency as a regulatory means in this regard. They are in violation of both the aforesaid constitutional provision and the purpose of protecting the freedom and rights of the people. In addition, according to Article 1 and Article 2-I of said Act, Article 8 thereof merely applies to some, but not all, religions, which is contrary to such constitutional principles of religious neutrality and religious equality as should be carefully upheld by the State. From the date of this Interpretation, Article 8 and Article 2, Paragraph 1, of said Act shall become void within two years.

REASONING: Article 23 of the Constitution unambiguously provides that

解釋理由書：關於人民自由權利之限制，應以法律加以規範，憲法第

the freedoms and rights of the people shall only be restricted by law. The term “law” as used therein shall mean any legislative bill that shall have been passed by the Legislative Yuan and promulgated by the President of the Republic. Article 2 of the existing Standard Act for the Laws and Rules provides, “A law may be denominated as an act, a lu, a statute or a general act.” Article 5, Subparagraph 2, thereof provides that such matters as concern the rights and obligations of the people shall be legislated and Article 6 thereof further provides that “those matters that should be prescribed by law may not be governed by administrative regulation.” Judging from the foregoing provisions, the principle of reservation of law (*Gesetzesvorbehalt*) must be followed in the legal system during the constitutional period when it comes to matters regarding the rights and obligations of the people. Nevertheless, one of the foregoing denominations of “law,” namely, statute, though accorded the status of a law nowadays, was not so during the early era of the political tutelage. Article 1 of the former Standard Act for the Laws and Rules provided, “Any

二十三條定有明文。此所謂法律，依憲法第一百七十條規定，係指經立法院通過，總統公布者而言。依現行中央法規標準法第二條：「法律得定名為法、律、條例或通則。」第五條第二款所稱，關於人民之權利義務事項，應以法律定之，及第六條：「應以法律規定之事項，不得以命令定之。」等規定觀之，憲政時期之法制，就規範人民權利義務之事項，須符合法律保留原則，甚為明確。惟關於上開法律名稱中之條例一種，於今固屬法律位階，然於訓政初期，依前法規制定標準法第一條：「凡法律案由立法院三讀會之程序通過，經國民政府公布者，定名為法。」第二條：「左列事項為法律案，應經立法院三讀會程序之通過：一、關於現行法律之變更或廢止者。二、現行法律有明文規定應以法律規定者。三、其他事項涉及國家各機關之組織或人民之權利義務關係，經立法院認為有以法律規定之必要者。」及第三條：「凡條例、章程或規則等之制定，應根據法律。」第四條：「條例、章程、規則等，不得違反或牴觸法律。」第五條：「應以法律規定之事項，不得以條例、章程、規則等規定之。」等規定觀之，當時之法制，固已寓有法律優越及法律保留原則之要

legislative bill passed by the Legislative Yuan through the third reading procedure and promulgated by the National Government shall be denominated as an act.” Article 2 thereof said, “The following matters shall be made in the form of a legislative bill to be passed by the Legislative Yuan through the third reading procedure: (i) any matter concerning the modification or repeal of any existing law; (ii) any matter that should be prescribed by law in accordance with an existing law; and (iii) any other matter concerning the organization of various agencies of the State or involving the rights and obligations of the people, in respect of which the Legislative Yuan deems it necessary to prescribe by law.” Article 3 thereof further provided, “The enactment of any statute, by-law or regulation shall be made pursuant to law.” Article 4 thereof then said, “Any statute, by-law or regulation shall not be contrary to or in conflict with law.” And, finally, Article 5 thereof provided, “Those matters that should be prescribed by law shall not be prescribed by a statute, by-law or regulation.” In light of the aforesaid provisions, it may be inferred that the require-

求，但條例尚屬命令位階（迨前法規制定標準法於三十二年六月四日修正公布後，依其第三條：「法律得按其規定事項之性質，定名為法或條例。」之規定，條例始具法律地位），然制定法律之立法機關，即隸屬於國民政府之立法院，並非由人民直接選舉之成員組成，法律案經其議決通過後，仍須經國民政府之國務會議議決始能公布（十七年十月八日公布之中華民國國民政府組織法第十三條、第三十一條參照），且依上開前法規制定標準法第二條第三款規定解釋，關於涉及人民權利義務關係之事項，如未經立法院以法律規定者，國民政府或其所屬五院或行政院各部會尚非不得制定公布或訂定發布條例、章程、規則等命令（十七年十月八日公布之中華民國國民政府組織法第十三條、第十四條、第二十三條參照），予以規範。是以當時法律保留原則之涵義及其適用之範圍，均與行憲後者未盡相同。

ments of the principles of superiority, as well as reservation, of law had been implied in the legal system at that time, but that a statute remained a regulation (and had not achieved the status of a law until Article 3 of the former Standard Act for the Laws and Rules, as amended and promulgated on June 4, 1943, provided, “A law may be denominated as an act or a statute based on the nature of the matters prescribed thereby.”) Nevertheless, the law-making body at the time, i.e., the Legislative Yuan, was subordinate to the National Government and not comprised of members directly elected by the people. A legislative bill passed by the Legislative Yuan had to be resolved by the State Council before it could be promulgated. (See Articles 13 and 31 of the Organic Act of the National Government of the Republic of China as promulgated on October 8, 1928.) Furthermore, under Article 2, Subparagraph 3, of the former Standard Act for the Laws and Rules, it would be so interpreted as to lead to the conclusion that a matter involving the rights and obligations of the people, if not prescribed by law by the Legislative Yuan, could be

regulated by the National Government or any of the five Yuans thereunder or various departments or agencies of the Executive Yuan in the form of such order or rule as a statute, by-law or regulation as announced or issued by the same. (See Articles 13, 14 and 23 of the Organic Act of the National Government of the Republic of China as promulgated on October 8, 1928.) Therefore, the denotation of the principle of reservation of law (*Gesetzesvorbehalt*) and the scope of application of such principle were not exactly the same as what we have known since the Constitution was put into effect.

The Act on the Management of Temples, drawn up by the Ministry of the Interior, was originally issued by the National Government on January 25, 1929. However, troubles and disturbances erupted after the implementation thereof in various provinces in the Chinese mainland. As a result, the Ministry of the Interior submitted said Act to the Executive Yuan, which, in turn, submitted the same to the National Government. On May 25 of that same year, the National Government

國民政府原於十八年一月二十五日發布由內政部所擬訂之寺廟管理條例，但當時大陸各省施行後，屢生窒礙及紛擾，內政部特呈由行政院轉呈國民政府，於同年五月二十五日，將該條例令交立法院審核，經立法院於同年第二十七次會議提出討論，認為該條例窒礙難行，乃另行草定監督寺廟條例草案，該院於同年十一月三十日第六十三次會議，將該草案提出逐條討論，省略三讀會程序（十七年十一月十三日公布之立法院議事規則第十條、第十一條參

sent said Act to the Legislative Yuan with the order for the latter to give it a full review. After a discussion thereof by the Legislative Yuan on its 27th Meeting held that same year, the Legislative Yuan considered said Act difficult to carry out and, thus, drafted a bill of the Act of the Supervision of Temples, which was presented at the 63rd Meeting of said Yuan on November 30 of the same year for article-by-article discussion and was then passed without going through the third reading procedure (See Articles 10 and 11 of the Regulation Governing the Meetings and Discussions of the Legislative Yuan as promulgated on November 13, 1928) before being submitted to the National Government for promulgation and implementation on December 7, 1929. This was the Act of the Supervision of Temples at issue today. Subsequently, despite the promulgation of the preparatory procedure for the implementation of the Constitution on January 1, 1947, the Act at issue remained unchanged or un-repealed and continues to be applied today. Moreover, after the implementation of the Constitution, the Legislative Yuan Committee

照），通過全案，呈由國民政府於十八年十二月七日公布施行，此即本案系爭之監督寺廟條例。嗣國民政府依三十六年一月一日公布之憲法實施之準備程序，亦未加以修改或廢止，而仍持續沿用，且行憲後經立法院法規整理委員會分類整編「中華民國現行法律目錄稿本」，交由相關委員會審查後，經第一屆立法院於四十四年一月七日第十四會期第三十一次會議決議編入「中華民國現行法律目錄」，認屬現行有效之法律（見立法院公報第十四會期第八期，四十四年二月十六日印，第五十四至五十五頁、第七十四頁；立法院法規整理委員會編印，中華民國現行法律目錄稿本《截至中華民國四十三年五月八日止》，第一及二十七頁；並參考謝振民編著、張知本校訂之中華民國立法史，正中書局，三十七年一月滬一版，第六二〇頁至六二二頁），並迭經本院作為審查對象在案（本院釋字第六十五號、第二〇〇號解釋等參照），自應認其已具法律之性質及效力。是以上開條例有關人民權利義務事項之規定，尚難謂與我國行憲後之法律保留原則有所違背。

on the Arrangement of Laws and Regulations categorized and compiled a “Preliminary Catalogue of Existing Laws of the Republic of China” and submitted the same to relevant committees of the Legislative Yuan for the latter’s review. Whereupon the first Legislative Yuan resolved on January 7, 1955, at its 31st Meeting of the 14th Session that said Act be compiled into the “Catalogue of Existing Laws of the Republic of China,” thus recognizing it as an existing and effective law. (See LEGISLATIVE YUAN GAZETTE, 14th Sess., 8th Vol., February 16, 1955, at 54-55, 74; LEGISLATIVE YUAN COMMITTEE ON the ARRANGEMENT OF LAWS AND REGULATIONS, PRELIMINARY CATALOGUE OF EXISTING LAWS OF THE REPUBLIC OF CHINA, as of May 8, 1954, at 1, 27; see also HSIEH ZHEN-MIN, LEGISLATIVE HISTORY OF THE REPUBLIC OF CHINA at 620-622 (Chang Zhi-Ben, Ed., Zheng Chung Bookstore (January 1948, Hu-1st ed.).) Besides, this Yuan has repeatedly reviewed it in various cases on record. (See J.Y. Interpretations Nos. 65 and 200.)

Thus, it should be deemed to have achieved the status and force and effect of a law. The provisions of the aforesaid Act that involve the rights and obligations of the people, therefore, are not contrary to the principle of reservation of law(Gesetzesvorbehalt) as applied subsequent to the implementation of the Constitution.

Article 13 of the Constitution provides for the people's freedom of religious belief. This should refer to the people's freedom to—or not to—believe in any religion, as well as the freedom to—or not to—participate in any religious activities. It also means that the State shall not encourage or forbid any specific religion, nor shall it give favorable or unfavorable treatment to any people having specific beliefs. The scope of such protection extends to the freedom of inner belief, freedom of religious activity, and freedom of religious association. (See J.Y. Interpretation No. 490). It is impossible to completely separate the religious activities engaged in and religious association attended by the people from the heartfelt,

憲法第十三條規定人民有信仰宗教之自由，係指人民有信仰與不信仰任何宗教之自由，以及參與或不參與宗教活動之自由，國家不得對特定之宗教加以獎勵或禁制，或對人民特定信仰畀予優待或不利益。其保障範圍包含內在信仰之自由、宗教行為之自由與宗教結社之自由（本院釋字第四九〇號解釋參照）。人民所從事之宗教行為及宗教結社組織，與其發乎內心之虔誠宗教信念無法截然二分，人民為實現內心之宗教信念而成立、參加之宗教性結社，就其內部組織結構、人事及財政管理應享有自主權，宗教性規範苟非出於維護宗教自由之必要或重大之公益，並於必要之最小限度內為之，即與憲法保障人民信仰自由之意旨有違。憲法第十五條規定人民之財產權應予保障，旨在確保個人

devout religious convictions held by the same. In respect of a religious association established and attended by the people for the purpose of observing their religious beliefs, autonomy should be given to it as far as its internal organization and structure, personnel and financial administration are concerned. Any religious regulations, if not made to maintain the freedom of religion or any significant public interests, or if not made to the minimum extent necessary, should be deemed to be in conflict with the constitutional intent to protect the people's freedom of belief. Article 15 of the Constitution provides that the people's property right shall be guaranteed. The intent thereof is to ensure that an individual may freely exercise the rights and powers to use, derive benefits from, and dispose of any and all of his properties depending upon the existing status of such properties, and that such properties will not be subject to intrusion by a third party, public or private. The property of a temple, therefore, should also be subject to the protection of the Constitution under the provisions regarding the property right.

依其財產之存續狀態行使其自由使用、收益及處分之權能，並免於遭受公權力或第三人之侵害。寺廟之財產亦應受憲法有關財產權規定之保障。

The freedom of religious association should extend to such matters as the internal organization and structure of a temple, its participation (or non-participation) in another religious civil organization (religious society) as an institutional member, the internal privity between the temple and such other religious civil organization, as well as the management and disposition of the property of the temple. Article 8 of the Act of the Supervision of Temples provides, "The real properties or ritual objects of a temple shall not be disposed of or modified unless made by means of a resolution reached by the religious society to which such temple belongs and subject to approval by the authorities-in-charge." The said provision is designed to protect the properties of any kind of temple not listed in Article 3 of said Act, preventing the real properties and ritual objects from improper disposition or modification that may restrict the spread and subsistence of the beliefs of the temple. No doubt, the foregoing are legitimate grounds for such provision. As far as the consent of the religious society to which the temple belongs is concerned,

寺廟內部之組織結構、是否加入其他宗教性人民團體（教會）成為團體會員，及其與該宗教性人民團體之內部關係，暨寺廟財產之管理、處分等事項，均屬宗教結社自由之保障範圍。監督寺廟條例第八條規定：「寺廟之不動產及法物，非經所屬教會之決議，並呈請該管官署許可，不得處分或變更。」旨在保護同條例第三條各款所列以外之寺廟財產，避免寺廟之不動產及法物遭受不當之處分或變更，致有害及寺廟信仰之傳布存續，固有其正當性，惟其規定須經所屬教會同意部分，未顧及上開寺廟之組織自主性、內部管理機制之差異性，以及為宗教傳布目的所為財產經營之需要，對該等寺廟之宗教組織自主權及財產處分權加以限制，妨礙宗教活動自由已逾越必要之程度；且其規定應呈請該管官署許可部分，就申請之程序及許可之要件，均付諸闕如，不僅受規範者難以預見及理解，亦非可經由司法審查加以確認，已違法律明確性原則（本院釋字第四四五號、第四九一號解釋參照），遑論採取官署事前許可之管制手段是否確有其必要性，其所採行之方式，亦難謂符合最小侵害原則，牴觸憲法第二十三條規定。

however, it fails to give considerations to the autonomy of a religious organization, differences in internal management mechanisms among such organizations, as well as their needs to manage properties for purposes of missionary work or preaching while putting restraints on the autonomy and property right of such religious organizations. As a result, more than necessary restrictions have been placed upon religious activities. Furthermore, in respect of the approval by the authorities-in-charge, the procedure and requirements for relevant applications are wanting, not only rendering it difficult for the subjects of such provisions to foresee and comprehend, but also making it impossible for such procedure and requirements to be confirmed through judicial review, which is against the principle of clarity and definiteness of law (See J.Y. Interpretations Nos. 445 and 491), not to mention whether it is indeed necessary to adopt prior approval by a government agency as a regulatory means in this regard. The means adopted thereby also cannot be said to have satisfied the requirements of the principle of least intru-

sion, thus conflicting with the provisions of Article 23 of the Constitution.

The constitutional guarantee of the people's freedom of religious belief is intended to preserve self-development and self-realization of the human spirits of the people, as well as to make social and cultural diversity a tangible reality. Therefore, as stated earlier, the State shall discreetly abide by the principles of neutrality and tolerance by not encouraging or forbidding any specific religion, nor giving favorable or unfavorable treatment to any people having specific beliefs. Moreover, Article 7 of the Constitution says, "All citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal under the law." Therefore, if the State forbids a specific religion or gives it unfavorable treatment, it goes counter to the principles of religious neutrality and religious equality. Under Article 3 of the Act of the Supervision of Temples, the Act does not apply to any temple managed by a government agency or local public group, or established as a private entity. In contrast,

憲法保障人民有信仰宗教之自由，係為維護人民精神領域之自我發展與自我實踐，及社會多元文化之充實，故國家對宗教應謹守中立及寬容原則，不得對特定之宗教加以獎勵或禁制，或對人民特定信仰界予優待或不利益，前已述及；且憲法第七條明文規定：「中華民國人民，無分男女、宗教、種族、階級、黨派，在法律上一律平等。」是國家如僅針對特定宗教而為禁制或界予不利益，即有悖於宗教中立原則及宗教平等原則。監督寺廟條例第三條規定，排除由政府機關、地方公共團體管理以及私人建立管理之寺廟適用該條例，僅將由信眾募資成立之寺廟（實務上稱為「募建寺廟」）納入該條例規範，其以寺廟財產來源作為差別待遇之區分標準，尚未涉及對不同宗教信仰之差別待遇，參酌前述該條例保護寺廟財產、防止弊端之立法目的，當屬考量規範對象性質之差異而為之合理差別待遇，固難謂與實質平等之要求有違。惟同條例第八條之規定，依該條例第一條所稱「凡有僧道住持之宗教上建築物，不論用何名稱，均為寺廟」，及第二條第一項所

only those temples that are established by means of funds raised by the followers (referred to as “fund-supported temples” in practice) are subject to the provisions of said Act. Differential treatment is given based on such criterion as the source of properties of a temple. As such, no discriminatory treatment as to various religious beliefs is involved. In light of the legislative objectives of the aforesaid provisions of said Act, namely, protecting properties of a temple and preventing abusive activities, such discriminatory treatment should be considered as reasonable measures adopted after having taken into account the nature of the subjects of such regulation. No requirements of substantive equality can be said to have been breached. However, the provisions of Article 8 of said Act merely apply to some religions like Buddhism and Taoism but do not impose identical restrictions on other religions by operation of Articles 1 and 2, Paragraph 1, thereof, which provide, respectively, that any religious structure over which a Buddhist monk or a Taoist priest presides, irrespective of the name of such structure, shall be a temple

定「寺廟及其財產法物，除法律別有規定外，依本條例監督之」，僅適用於佛、道等部分宗教，對其餘宗教未為相同之限制，即與憲法第十三條及第七條所定之宗教中立原則及宗教平等原則有所不符。

for the purpose of said Act, and that, unless otherwise provided by law, a temple, as well as its properties and ritual objects, shall be supervised pursuant to said Act. Consequently, the principles of religious neutrality and religious equality as required by Articles 13 and 7 of the Constitution are violated.

To sum up, the provisions of Articles 8 and 2, Paragraph 1, of the Act of the Supervision of Temples are contrary to Articles 7, 13, 15 and 23 of the Constitution. In view of the fact that the foregoing provisions of said Act are the primary norms on the supervision of the disposition of properties of the aforesaid temples, reasonable time will be required to respond to such change of supervisory systems. Therefore, from the date of this Interpretation, Article 8 and Article 2, Paragraph 1, of said Act shall become void within two years.

Justice Lai, In-Jaw filed concurring opinion in part.

Justice Yu-hsiu Hsu filed concurring opinion.

綜上所述，監督寺廟條例第八條及第二條第一項之規定牴觸憲法第七條、第十三條、第十五條、第二十三條，鑒於該條例上開規定係監督前揭寺廟財產處分之主規範，涉及管理制度之變更，需有相當時間因應，爰均應自本解釋公布日起，至遲於屆滿二年時，失其效力。

本號解釋賴大法官英照提出部分協同意見書；許大法官玉秀、王大法官和雄分別提出協同意見書。

Justice Ho-Hsiung Wang filed concurring
opinion.