

J. Y. Interpretation No.86 ( August 15, 1960 ) \*

**ISSUE:** Shall High Courts and District Courts be subordinate to the Judicial Yuan as provided in Article 77 of the Constitution?

**RELEVANT LAWS:**

Articles 77 and 82 of the Constitution ( 憲法第七十七條、第八十二條 ) .

**KEYWORDS:**

the Judicial Yuan ( 司法院 ) , the High Court ( 高等法院 ) .\*\*

**HOLDING:** Article 77 of the Constitution stipulates that the Judicial Yuan is the highest judicial organ of the State and holds the judicial power over trials of civil and criminal litigation, of which trials shall include civil and criminal litigation at courts of all levels. In view of the fact that different levels of courts and subsidiary courts below the High Court inclusively hold the judicial power over trials of civil and criminal litigation, these courts shall be subordinate to

**解釋文：**憲法第七十七條所定司法院為國家最高司法機關，掌理民事、刑事訴訟之審判，係指各級法院民事、刑事訴訟之審判而言。高等法院以下各級法院及分院既分掌民事、刑事訴訟之審判，自亦應隸屬於司法院。

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\* Translated by Dr. F. T. Liao, Assistant Research Fellow, Institute of Law, Academia Sinica.

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the Judicial Yuan.

**REASONING:** Article 77 of the Constitution stipulates that the Judicial Yuan is the highest judicial organ of the State and holds the judicial power over trials of civil and criminal litigation, the trials of which shall include trials of civil and criminal litigation at courts of all levels. In view of this fact, Article 82 of the Constitution, which stipulates that the structure of the Judicial Yuan and courts of all levels shall be organized by law and is incorporated into the chapter of the Judiciary intending to establish the consistency of the judicial system, contributes as cross-evidence. Based on this reason, all levels of courts and subsidiary courts below the High Court shall be subordinate to the Judicial Yuan. All relevant acts and regulations shall respectively be amended to comply with the concept of Article 77 of the Constitution.

Justice Ji-Jong Wang filed dissenting opinion.

**解釋理由書：**憲法第七十七條所定司法院為國家最高司法機關，掌理民事、刑事訴訟之審判。其所謂審判自係指各級法院民事、刑事訴訟之審判而言，此觀之同法第八十二條所定司法院及各級法院之組織以法律定之，且以之列入司法章中，其蘄求司法系統之一貫已可互證，基此理由則高等法院以下各級法院及分院自應隸屬於司法院，其有關法令並應分別予以修正，以期符合憲法第七十七條之本旨。

本號解釋王大法官之侑提出不同意見書。