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THE NUMBER OF INTERPRETATIONS GIVEN BY THE COUNCIL  
OF GRAND JUSTICES OF THE JUDICIAL YUAN

A prefatory section ("Notes") in Ssu fa yūan ta fa kuan hui i chieh shih hui pien [Compilation of Interpretations of the Council of Grand Justices of the Judicial Yūan] indicates that from the establishment of the Council in 1948 until the end of 1976, the Council handed down 146 interpretations. Hsieh Kuan-sheng's preface to the first edition of this work, published in 1963, states that from the time of its inauguration until the time of his writing, the Council gave 100 interpretations, 29 of which were interpretations of the Constitution. In his preface to the second edition, written in January 1974, T'ien Chiung-chin indicates that from its establishment until the time of his writing, the Council made 137 interpretations, 35 of which were interpretations of the Constitution and 102 of which were interpretations of laws and decrees.

T'ien's prefaces to the second and third editions comment on the marked reduction in the number of interpretations given by the Council of Grand Justices resulting from the adoption in 1958 of a law narrowing the scope of the Council's power to interpret. In the period between the inauguration of the Council in 1948 and the promulgation of the Law Governing the Council of Grand Justices

of the Judicial Yuan on July 21, 1958, T'ien states, the Council made an average of 13 interpretations a year.<sup>1/</sup> After the promulgation of this law, the interpretations given by the Council have averaged only three a year, although there has been an average of more than 60 requests for interpretation each year. T'ien explains that since 1958 a doctrine of strict limitation has prevailed with respect to the interpretation of laws and decrees. According to this doctrine, an interpretation will be given only when a central or local organ, in applying a law or decree within the scope of its functions and powers, takes a position different from that previously taken by the same organ or another organ in applying the same law or decree. T'ien indicates that he thinks further study should be given to the question of the desirability of this doctrine of strict limitation.

As historical background, T'ien indicates that in the "tute-  
lage" period which preceded the promulgation of the Constitution of

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<sup>1/</sup> There is a discrepancy in the figures appearing in these three prefaces. As stated above, T'ien indicates that between 1948 and 1958 the Council issued an average of 13 interpretations a year. If in fact an average of 13 interpretations had been issued each year of a ten-year period, then by 1958 at least 130 interpretations would have been issued. Hsieh Kuan-sheng, however, indicated that by 1963 only 100 interpretations had been issued. T'ien himself states that by January 1974 only 137 interpretations had been issued.

of the Republic of China, all questions concerning the interpretation of laws and decrees were given to the President of the Supreme Court for his study together with the Chiefs of the Divisions of the Court. The collective decision reached by these officials of the Supreme Court was referred to the Judicial Yuan for its examination, approval, and promulgation. During this period there was a response to all requests for an interpretation. In the period between January 1928 and May 1948 the Judicial Yuan issued more than 4,000 interpretations, an average of more than 200 a year.

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SUBJECT HEADINGS OF SSU FA YÜAN TA FA KUAN HUI I CHIEH SHIH HUI PIEN  
 [Compilation of Interpretations of the Council of Grand Justices  
 of the Judicial Yüan]

	<u>Number of legal provisions discussed in interpretations</u>
(1) Constitution and Related Laws and Decrees. . . . .	.53
(2) Administrative Laws and Decrees . . . . .	.45
(3) Legislative Laws and Decrees. . . . .	1
(4) Examination Laws and Decrees. . . . .	5
(5) Supervision Laws and Decrees. . . . .	1
(6) Judicial Laws and Decrees . . . . .	.15
(7) Laws and Decrees Related to Civil Matters. . . . .	.49
(8) Laws and Decrees Related to Criminal Matters . . . . .	<u>.65</u>
Total . . . . .	234

(1) In the first category one interpretation concerns a regulation governing the filling of vacant seats for deputies to the First National Assembly, and the remainder are interpretations of various articles of the Constitution.

(2) The second category presents interpretations of 23 different administrative laws and decrees.

(3) The sole interpretation in category three deals with the Regulations Governing the Effectiveness of the Implementation of Laws.

(4) The five interpretations in this category concern the Examination Law and the Law for the Appointment of Public Functionaries.

(5) The sole interpretation in this category concerns the Law Governing Auditing.

(6) The interpretations in this category deal with the following five laws: Regulations Governing the Council of Grand Justices of the Judicial Yuan, the Law Governing Administrative Cases, the Law Governing the Punishment of Public Functionaries, the Law Governing the Organization of Courts, and the Lawyers' Law.

(7) The interpretations in this category deal with six different chapters of the Civil Code and ten other laws and decrees.

(8) The interpretations in this category deal with the Criminal Code and the Code of Criminal Procedure and eight other laws and decrees.

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