

SOME OFF-SHOOTS OF THE LEGALIST SCHOOL

(Concluded)

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THE Legalists influenced or were influenced by a number of more or less contemporary writers and statesmen who cannot be strictly classed as Legalists. Yin Wen Tse was a logician ("Ming Chia") rather than a Legalist and furthermore according to the "T'ien Sha P'ien" was a pacifist, a follower of Meh Tse. His connection with the Legalists has already been indicated.

Yen Tse is classified in the "Han Chi" as a Confucianist and this is probably correct, the chapters in the work attributed to him which are of a different complexion may be regarded as apocryphal. These chapters, however, caused him to be styled a follower of Kuan Tse.

We have mentioned the view of Heo Kuan Tse that the role of the sage is not to make the law but to seize it in the "tao." He speculated much on the ultimate nature of the universe. He held that originally there existed the Supreme One, undifferentiated and without feeling, in what is now the centre of the universe—the great unknown whence came the "yin" and the "yang;" Heaven is a being who gives by virtue of the "tao" their nature to all beings. He is indeed more a Taoist than a Legalist.

In the period of the Warring States there came into being a school of thought which developed some of the more cynical tendencies of the Legalists. It became known as the TSUNG HUEN CHIA or "Perpendicular and Horizontal School of Politics." The name is usually derived from the advocacy of alliances of states north and south to separate the east and west (Ch'i and Ch'in respectively) and east and west to isolate the principalities of north and south. Yet having regard to the wider application of their philosophy "tsung-huen" might perhaps be translated "warp and woof."

The founder of this school, so far as it may be said to have had a founder, has generally been regarded as Wang Hu, better known as Kuei Ku Tse which Wieger interprets as "Master of the Valley of the Dead." There is no mention of the writings under his name earlier than the Sui Chi, but Mayers observes that the material suggests that his doctrines were applicable to the conditions of the Fourth Century B. C. He maintained, like Wei Yang, that law is the expression of the will of the prince and like him insisted on the duty of blind obedience on the part of the people, but does not enlarge on these subjects as he regards them as known. His work is more taken up with his theories concerning the alternation of the "yin" and the "yang," of which the most obvious manifestation in nature is the rotation of the four seasons. He compares various states of mind and of fortune with one another. The mouth is, he says, the door of the mind, and the mind the lord of the spirit; will, pleasure, desire, thought, knowledge, scheming, all enter and exit by it. Wherefore the thing to know was when to open and when to close it. Indeed there was a time for everything and for everything a time—to his followers, at least, this meant a time for making promises and a time for breaking faith. Indeed in politics the main doctrine of this school seems to have been that alliances should be made and broken according to policy, following the way of the earth, ever revolving, and of the ever interchanging "yin" and "yang." This principle he called "fei" or dart, for as Wieger says its purpose was to "harpoon" opportunity.

According to Sze Ma Ch'ien the two notorious statesmen, Chang Yi and Su Tsin, studied under Wang Hu. Their careers show them to have been apt pupils. The career of Chang Yi is neatly summarised by Father Wieger somewhat as follows: He was a native of the state of Wei, but he betrayed his lord the Marquis of Wei and in 328 B.C. took service in Ch'in and fought Wei. In 323 under Wei he fought against Ch'in. In 317 under Ch'in he fought Wei. In 310 he re-entered the service of Wei and died in bed—"personne ne l'ayant pendu" as the learned Father aptly observes. The same authority adds that he worked "pour l'amour de l'art et pour espèces sonnantes." The records of the arguments he used to detach Chao Yen and Ch'i from an anti-Ch'in alliance, show that he was well able to suit his arguments to each individual,

whether to stimulate ambition or to encourage prudence. Much the same may be said of Su Tsin's arguments to persuade six states to join his policy of an alliance against Ch'in. They were each won by his allowing for local and personal idiosyncrasies—by taking advantage of weakness, ambition, jealousy or fear. His phrase to stimulate the ambition of Han has become well known: "Better to be a chicken's head than an ox's tail." The story of the mussel, the bird and the fisherman is also attributed to him.

In an account of the early Legalists an account of PAO SENG may seem out of place as he was certainly not a believer in the majesty of the law, and he probably lived in the third century A.D. Yet it may be of some interest to see how it was possible from many of the same premises as the Legalists started from, to arrive at very different conclusions. For though an observation of the Way of Nature led the Legalists to Absolutism if not Tyranny, in politics it led Pao Seng to philosophical Anarchy. For a record of his views we are indebted to a chapter entitled "Warning against the Teaching of Pao" in the work of the famous Taoist of the Chin Dynasty, Pao P'u Tse (the surnames though the same in their romanised forms are represented by different characters), better known as Ku Hong, who criticises his views from what is practically a Confucian standpoint. Pao Seng himself appears to have been the leading Taoist in his own day. The following summary of his views is based on Hsieh Yu Liang's "History of Chinese Philosophy."

The Confucianists say that Heaven produced the people and set up rulers over them—but was this actually the will of Heaven? The strong coerce the weak and the weak submit, the cunning get the better of the dull and the dull submit—from this sprang the system of rulers and subjects. All life delights in going its own way. The branch indeed is shaped and the rattan split, but that is not the desire of the tree or of the cane. The bird has its wings clipped, but that is not the will of the bird. It is not the nature of the horse to be bridled, nor does the ox delight in being yoked to a heavy load. Even so is the submission of the people brought about by the officials: for those of high rank enjoy the emoluments of office while the people labour. If the latter have to give their life to gain security what is their gain?—It were at least better not to die. And as for governors giving up rank and position in order to gain

a name—if such renunciation is laudable, how much better not to take office in the first place! It is when the empire is in disorder that loyalty and justice are manifest. When relatives are not in harmony then only do filial piety and compassion appear.

These last remarks merely echo the views of the great early Taoists. Pao Seng's account of the evolution of political society, too, is in accord with suggestions in the writings of those philosophers, but it differs much in spirit from the accounts given in an earlier chapter, and not a little in fact. In ancient times, he says, there were no rulers and in those days men dug wells and drank the water, they cultivated fields and ate the products; at dawn they went forth and at even they returned home. There was no strife for there was no competition, there being neither glory nor shame. There were foot-paths in the mountains, but no boats, so rivers could not be crossed and so there was no encroaching on the territory of others. The leaders did not gather the people together so there was no war. It was safe to step on the tail of a hungry tiger, or to take hold of poisonous snakes. If a man waded in a marsh the wild geese did not fly away; if he entered the woods the foxes and rabbits were not alarmed. "For in those days as authority had not sprouted there were no disasters." As there were no swords and spears there were no walls and ramparts. All things were equally simple, so with immunity all could forget The Way. But when men began to use cleverness, cunning arose and virtue declined. Then too there came ranks and grades of high and lowly; some heaped up wealth, and they departed daily further from their primitive simplicity. The promotion of the capable led to striving for reputation. When possessions were valued robbery arose. Thus came the saying that if the white gem were not broken there would be no imperial tablet, and if virtue were not lost how should men make much of benevolence and righteousness?

One of Pao Seng's chief points is that the ease and comfort of the few could not be obtained without the toil and suffering of the many and that law and government are a device of the few to secure themselves in the enjoyment of their possessions. He supports this with a variety of illustrations. Where the otters are many the fish are sad, he points out, where the eagles are many the birds are in confusion; so when officials are appointed the people suffer. When the rulers have abundance the people are poor.

When within the harem are many women, without are many bachelors. When the rulers heap up grain and silk, the people are cold and hungry. When the body-guards are numerous the people have to support many idle hands and the people lack clothes and food. Because it is feared that otherwise the wise and vigorous will not take office large salaries and stipends are added to attract them. Because it is feared that the unruly otherwise will not be restrained high walls and deep moats are constructed. For it is not realised that high salaries for the officials mean poor people and arrogant ministers, that when the walls are strong the assault is fierce and skillful. If it is considered a great happiness to lay aside the quiver and the bow and to stack arms how much better never to raise an army and to have no war! If the official who exacts little is thought generous his kindness after all is only like wiping a fish with a moist cloth after taking it out of the water. When laws and commandments are spread abroad then thieves and robbers abound. Such methods of "saving" only make the disaster worse. It is because there are weights and measures that there is fraud. If there were no walls and ramparts to protect them there would be no wealth and treasures stored up. If there were nothing to covet, though there were no walls and ramparts no enemy would attack.

THE INFLUENCE OF THE LEGALISTS AND THE
VIEWS OF VARIOUS CRITICS

Kuan Chung, Shang Yang and some of the minor Legalists being powerful statesmen were able to exert an immediate practical influence, especially in their own states. From the time of Wei Yang Legalist theories had a marked practical effect on the statecraft of the principality of Ch'in, which steadily increased its power and extended its sway until it absorbed the whole empire. Li Se himself may be fairly described as a Legalist and his master, the "First Emperor" found many of the theories of this school after his own heart, though from these the doctrine of "wu wei" as applied to the sovereign must certainly be excepted! To those who have in mind the views of Shang Yang and Han Fei Tse on scholars and learning this will be particularly evident in the most notorious deed of the founder of the Ch'in Dynasty. Macgowan's account of this brings out clearly the connection, so we can hardly do better than quote it:

"In the year B.C. 212 a great council was held at Hien-Yang to discuss the affairs of the kingdom. It was advocated by some that the old methods of government under the previous dynasty should be adopted and the same division into states. The idea was strenuously opposed by Li Se, who showed how the nobles, under that system, had fought with each other to the detriment of the common weal, and how the scholars had been a source of mischief to the nation, because they had been accustomed to offer their services to the highest bidder without any reference either to their own particular states or to the empire at large. To stop this latter evil he advised that all the classical literature should be burned, and that only those on medicine, agriculture, divination, etc., should be preserved, and that all students should give their minds to the study of law, which they were to learn from the recognised officials of the empire. The emperor was highly pleased with this idea and at once promulgated an edict to this effect, which was carried out with the utmost stringency. It was enacted that all classical books should be handed over to the nearest magistrate to be burned; that if two scholars were found talking together about the classics they were to be put to death; and that if they were heard expressing their belief that the ancient books and customs were superior to those of today they and their families were all to be executed. In the following year, finding that the scholars had not obeyed his order, Shih Huang-Ti ordered that four hundred and sixty of the most conspicuous of them should be decapitated as a warning to the rest."

The Ch'in Dynasty was short lived and under the Hans the classical Confucian learning was revived. Yet the Legalists were still studied. Liu Pang, who became the founder of the Han Dynasty, was himself regarded as a disciple of the Legalists. Liu Hsiang, one of the most celebrated statesmen, historians and philosophers of the Han Dynasty described the "Kuan Tse" as a work "especially designed to enrich the realm, to give peace and happiness to the people and to set forth the principles essential to government and to direct the united force of the state." We have in earlier chapters given some quotations from Tong Chong Hsu, the most noted Confucian scholar of this dynasty showing that he was influenced to some extent by Legalist views, especially as regards the "objective standard."

We have noted, too, that Chu Ko Liang greatly valued the writ-

ings attributed to Kuan Chung and to Wei Yang. Of the former Fang Hsuen Ling one of the chief ministers of T'ai Tsung, the second emperor of the T'ang Dynasty wrote a commentary. A standard edition of this work was produced in the Ming Dynasty and it is perhaps safe to assume that the Legalist writings have throughout the centuries of Chinese history since the Ch'in Dynasty continued to exert an unobtrusive but perhaps important influence.

L. Wieger sums up his views on this subject thus: "The counts of Ch'in appropriated to themselves the system (of the Legalists), became, thanks to it, very powerful, crushed all the small states, destroyed the last remains of the feudal system and founded in 221 B.C. "la monarchie absolue chinoise, qui a duré jusqu'en 1912."

Of more or less contemporary criticisms the most noted are those of Hsuin Tse: "To point in the direction of law and yet to be without law, to despise the building up of character, while delighting in original activity; on the one hand subservient to their rulers, and on the other following the popular trend; spending their whole time in compiling books and yet without any controlling principle in their writings; incapable of laying down any principle of duty to the state and yet stubbornly maintaining their loyalty; with a speciousness in their teachings sufficient to lead astray the ignorant multitude; such were Shen Tao and T'ien P'ien." ("Criticisms of the Twelve Teachers") "Shen Tao was biased towards law and did not understand ability. Shen Pu Hai was biased towards authority and did not understand wisdom." ("The Expounding of Biases.") "Shen Tse's gaze was fixed on what would follow and he looked not at what went before."

Yet Hsuin Tse himself was not uninfluenced by their views as this passage quoted by Hu Shih in his "Development of Logic in Ancient China" shows: "The wise ruler knows that the people can be united by the 'tao' (the royal way) but cannot be expected to reason about things in the same manner. Therefore a wise ruler establishes authority over them, guides them by truths, reminds them from time to time by ordinances, makes truth clear to them by expository treatises, and forbids their deviation by penalties. By these means the people can be converted to truth as readily as by the aid of the gods. What use is there for arguments and debates?"

Liang Ch'i Ch'ao also holds that Hsuin Tse shows the influence of the Legalists in a marked degree in his doctrine that society should be reformed by strict adherence to "li" (which, Mr. Liang suggests, for Hsuin Tse meant definite rites and specific rules of conduct rather than a spirit of reverence or a sense of propriety). He further expresses the view that if some mechanical means or objective standard is to be employed "fah" are really preferable to "li."

The Legalists criticised above by Hsuin Tse naturally did not include Han Fei Tse as he was a pupil of Hsuin Tse himself, and his writings were probably produced after his master's death. However to subsequent generations they have been perhaps the best known of the Legalist works with the possible exception of the Kuan Tse. As to their immediate effect Hu Shih expresses himself thus: "The pragmatic method of Han Fei contained in it the downfall of the most glorious era of Chinese Philosophy. . . . The cause was a too narrow construction of the practically useful."

In conclusion it may be of interest to give some of Liang Ch'i Ch'ao's opinions concerning the influence of the Legalists and the value of their ideas. "Using the Taoist philosophy of Life and combining it with Confucian and Mehist logic," he says, "they evolved a consistent political theory. The Ch'ins took their theories and used them as a unifying principle; the Hans followed the example of the Ch'ins so that the system flourished for four hundred years. All the great statesmen and political theorists of the Han Dynasty made use of their doctrines in the government of the empire. . . . The great accomplishment of the Legalists was the treating of the people as one—the doctrine of the unity of the empire. The result was to make the people all of one mould like the articles turned out by a brick maker. To say that the individual character was entirely swallowed up by the state is possible if one regards the state as an outside inanimate thing, but if one regards the state as a living organism then one cannot admit the possibility of paring away the individuality of its members without harming the life of the body. The most poisonous result of the teaching of the Legalists was just this. The Confucianists, on the contrary,—as in the Chung Yung—held to "the utmost development of the character."

The concluding paragraphs of the "History of Pre-Chin Politi-

cal Thought" may be abridged as follows: The effect of the individual on society and of society on the individual have everywhere been recognised. But there are two schools of thought:—one that the individual must first be changed in order to change society, and the other that society must first be changed in order to change the individual—the one holding that society exists for the individual and the other that the individual exists for the sake of society. Liang holds that the course of progress in the world has come entirely from the strength of the living mind of the individual. He finds the Confucian saying, "One must first be able to perfect one's own character before one can perfect the character of others," accord with his own view. He wholly disapproves of the Mehist and Legalist idea of rectifying individuals by some mechanical process as if melting them in a common furnace and pouring them into the same mould, for he feels that this must result in individuality being swallowed up by society. Yet he recognises that ancient society was simple while modern society is very complicated. The power of the evil factors in this complicated society to suppress the good individuality so that it can hardly exist is very great. In the modern parliament, school, or factory the individual is like one grain in a granary. He himself cannot believe entirely in the absolute goodness of human nature, and still less in the perfect goodness of an agglomeration of many human natures. One cannot say therefore that the application of a unifying objective standard is wholly unreasonable, and this explains the great vogue of nationalism and socialism today. Mr. Liang cannot admit the excellence of a mechanical society and yet the ever increasing complication of society is a thing which cannot be escaped. He feels it a great duty to try to work out some means by which such a society, ever more complicated, may not become mechanical and by which the harmonious ("ren") society which is in the heart of the individual may become a fact. He concludes: "I must admit that I have not found the solution of this problem. Yet I believe the way can be found and that our ancient sages have vaguely intimated the direction in which it is to be found."

Who can say whether the future is with Liang Ch'i Ch'ao and Confucianism or with a narrow Nationalism and the Legalists!

(THE END)