

THE WIDE SCOPE OF TAO 盜 "THEFT," IN CH'IN-HAN LAW

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If "theft" in Ch'in-Han law had only covered the felonious appropriation of movable property, the investigation of its scope could hardly be of interest, as it would mainly result in a dull enumeration of the articles that could be stolen. But the scope--the Germans would use the pregnant term *Begriffsfeld*--of the word *tao* in those early days was much wider. So much so that in the period immediately following the Han the new legislators of the Wei and the Chin dynasty felt constrained to remove a number of items from the Han Statutes of Theft and to insert these elsewhere, although on the whole they continued to follow the Han code. It is the wide scope of what the Han jurists considered to be *tao*, "theft," and the large number and variety of the felonies they collected under the general category of *tao* that lend interest to the following analysis.

Any discussion of Chinese law before the T'ang period should be preceded by some remarks on our sources. For the T'ang and for all the succeeding dynasties we possess the codes as well as other collections of legislative material and compilations of case law. For the earlier periods in Chinese history the situation is different.

About the laws of the Ch'in kingdom and the following Ch'in empire nothing was known at all except for two or three snippets of information, until an archaeological discovery in 1975 provided us with a certain amount of material. This consists of a number of complete articles from no less than twenty-eight *lü* 律 or statutes, all of these being administrative rules, and forty-one passages from the penal laws. Compared to the complete absence of information before this epoch-making find, this is of course a great advance, but the fact should be realized that the information on Ch'in penal law remains rather modest.

For the laws of the Han period the situation is completely different. In 1984 no less than five hundred writing strips containing articles from more than a dozen Han statutes were found, together with another two hundred strips with case law.¹ However,

these texts have not yet been published, so that for the moment we are obliged to continue to rely on what the traditional texts have to tell us, supplemented by a few fragments of Han law discovered in recent years during archaeological campaigns, mainly in the defense lines along China's northwestern frontier, in particular in the Chü-yen or Edsin-gol region.

These traditional texts are of several types. First, there are the histories: *Shi chi*, *Han shu*, and *Hou Han shu*. Here we find occasional quotations from statutes and ordinances, but especially a considerable amount of case law where the authors evidently quote the documents of the case. Second, the early commentators of the histories often quote laws and so does a work like Hsü Shen's famous dictionary, the *Shuo-wen chieh-tzu* 說文解字 of A.D. 100. And third, the early commentators on the Classics quote contemporary Han law in order to elucidate passages in the Confucian canonical literature.

However, none of these rich sources--neither the Ch'in laws from Yün-meng nor the traditional texts of the Han period--ever explicitly quote the *tao lü* 盜律, the Statutes on Theft and Robbery, although in several cases it may be assumed that quotations from nameless statutes are, in fact, passages from the *tao lü*. Nevertheless, so much material mentions *tao* that it is quite legitimate to talk about the scope of the meaning of this term.

There exist several ancient definitions of the meaning of *tao*. Some of these are mere tautologies, saying that "to filch goods is to steal,"² or "privately (or rather: stealthily) to profit from goods is to steal."³ More to the point is the curious definition that "to take things which one should not take is called theft,"⁴ but by far the clearest is the one defining theft as "to take things which are not one's own."⁵ To this rule the Ch'in statutes had made one remarkable exception: "When a father steals from his children, this is not considered theft." But, the explanation adds, this rule did not apply to a foster-father.⁶

Although the definition is quite clear, it is also rather wide and consequently vague, perhaps purposely so. It also makes it evident that *tao* covered much more than theft alone, as will be shown in the following pages.

In practically all cases of the different varieties of theft, mention is made of *tsang* 贓, mostly written 臧, meaning "booty," that is, stolen goods. On the one hand, *tsang* denotes not so much the stolen goods themselves as their value expressed in cash. On the other hand, *tsang* refers to the profit obtained by other illegal

acts, like bribery, extortion, and embezzlement, as well as receiving stolen goods.⁷ I have consistently translated *tsang* by "illegal profit," whereas Professor Wallacker renders it by "ill-gotten gains."⁸ The presence of the single word *tsang* warns the reader that he is confronted with one of the many misdeeds subsumed under the general Ch'in-Han term *tao*.

During the questioning or the trial of a thief the value of the *tsang* was estimated, as is shown by several of the Yün-meng texts.⁹ The value of stolen government property was evidently known, but a statute discovered in the Edsin-gol defense lines provides for the contingency that it was not, stipulating that "the value of government property that has not been listed is to be calculated according to its average price in the tenth month (i.e., the first month of the administrative year)."¹⁰

The value of the booty, that is, the *tsang*, determined the severity of the punishment, but not many details are known on this point. Under the Ch'in, stealing mulberry leaves worth less than one cash was punished by a "fine" of thirty days' statute labor (!); for a value of more than 110 cash the thief had his beard shaved off and was condemned to hard labor as a bond-servant, whereas for 660 cash¹¹ or more he was tattooed and became a *ch'eng tan* hard-labor convict.¹²

The word *tao* also covers robbery, defined by the *Oxford English Dictionary* as "to despoil a person or persons of property by violence." This is fully expressed by the binome *ch'iang tao*

強盜, literally "to steal with violence," or a violent thief. So far, the earliest occurrence of this term seems to be in a wooden document of 1 B.C. discovered in 1975 near the city of Lien-yün-kang; it lists criminals and the crimes they had committed.¹³ A century later *ch'iang tao* is found in a memorial presented to the throne

between A.D. 109 and 113 by the well-known jurist Ch'en Chung

陳忠.¹⁴ Much older is the expression *ch'un tao* 群盜, "robbery in a band; gang robbery," which is found in the Yün-meng texts. These texts show that members of a gang were punished much more severely than individual robbers.¹⁵ During the Ch'in period five persons probably constituted a gang; in Han times this number may have been three.¹⁶

Tao is not only a verb, "to steal," or a noun, "thief, robber"; it is also used to qualify certain actions. In some of these combinations the element of theft is quite clear and meaningful; they will be discussed below.¹⁷ In others, "theft" is not so obvious; here *tao* may mean "in a secretive and illegal manner."

This is the case in *tao chueh* 缺, "to breach," i.e., making a breach in a pisé wall surrounding a hunting preserve or a cattle farm; the use of *tao* might also indicate that the opening was made for felonious purposes.¹⁸ In *tao chu* 鑄, "to cast in a thievish manner," namely bronze coins, it is quite apt.¹⁹ Less so, perhaps, in *tao feng* 封, "to seal," probably by purloining the seal of an official, or *tao shu* 書, "to copy" an official seal.²⁰

Harder to explain is the combination *tao ch'u* 出, "to send out," namely pearls or jade out of Ch'in territory, or to sell these to strangers.²¹ I cannot see why this was a punishable offense, unless the phrase would mean literally "to steal pearls or jade and then take these out of Ch'in territory," but this seems an unlikely solution. Curiously enough, the importation of such articles was also punishable, at least in Han times, when sending out (*ch'u*) persons into non-Chinese territory in order to buy rhinoceros horns and slaves was punished. In 54 B.C. the Grand Administrator of Chiu-chen 九真 (in present-day northern Vietnam), who had made an illegal profit out of this undertaking--more than one million cash!--was beheaded.²² A century later, in ca. A.D. 60, the same lot befell the Grand Administrator of Chiao-chih 交趾 (in the same region); here only the amount of the illegal profit is mentioned, viz., over 10 million cash, and the fact that it included pearls, but the crime is not specified.²³ In this case, it is possible that the culprit had been one of the corrupt officials who by their depredations had caused popular unrest and revolt, as happened a century later.²⁴

Nevertheless, two notices show unequivocally that such imports were legally prohibited. On the one hand, the Han histories record that in 148 B.C. a nobleman was deposed from his fief because he had sent emissaries to the Hsiung-nu in order to buy "forbidden goods."²⁵ On the other hand, the *Lieh-nü chuan* 列女傳²⁶ contains the story of two women who took pearls from Hai-nan to the mainland for which one of them would have to be beheaded because "the law [says] that persons who bring in pearls when entering the passes [or checkpoints, where goods had to pay dues, as we know from another source]²⁷ will die." Still, the reason why persons who exported pearls under the Ch'in or who imported such valuables during the Han were punished remains obscure because of a circumstance of considerable importance: the presence of Chinese merchants--mainly in P'an-yü 番禺 (modern Canton)²⁸--who dealt in the special products of the South, which included both pearls and rhinoceros horn.²⁹

After this interlude, with the riddles it poses unsolved and perhaps unsolvable, we can now turn to more concrete information.

To enumerate the objects that our sources mention as having been stolen would be a useless and unprofitable exercise. Still, there are cases of theft of quite ordinary goods that deserve our attention.

First, there is the theft of grain, about which the Yün-meng texts contain several rules. Officials in charge of grain stores were heavily fined if the doors of these stores could not be hermetically closed, allowing grain to be taken out;³⁰ however, they were not punished for theft. But they were so punished when they continued to issue rations to persons no longer entitled to such issues.³¹ The unwarranted issue of rations as well as the selling and buying of army rations are also dealt with in another article, this time from an unnamed statute that defines the punishments for these acts.³² In this long article, however, these felonious actions are not called theft--which would have resulted in the normal punishment with hard labor, depending on the value of the grain--for in this case all punishments are fines, *tzu* 貲.³³ These fines ranged between one shield and two suits of armor, for both the officers who sold the rations and for the civilians who bought them, whereas the other ranks were "fined" one to two years' frontier service.³⁴ Other thefts of grain will be discussed below.

The punishment for the theft of horses was death; this was stated by the leading man in the central government during the debate on the state's economy in 81 B.C.³⁵ The severity of the punishment was defended on the grounds that horses were important for agriculture; this is rather surprising because ploughing seems to have been done mainly with the help of oxen. The only case that can be distantly related to this law is that of a nobleman who was deposed and condemned to hard labor because he had hidden government brood mares (farmed out in order to increase the number of horses for the army) stolen by others;³⁶ nothing is said about the actual thieves. The same passage in the *Discussions on Salt and Iron* states that for the theft of cattle--presumably draft oxen--the punishment was increased, which probably means that it was heavier than that warranted by the value of the stolen animals.

Thefts of money are hardly ever mentioned. So far, the only known rule on this point is found in a Ch'in statute (the title of which is not mentioned) reading: "Privately [or stealthily] borrowing government money from a store-house [explained in the text as "a local treasury"] and using it [is subject to] the same rules as theft."³⁷

One rule charges statute laborers and military conscripts with theft in case they absconded or deserted taking the tools or arms that had been "lent" to them; they could be condemned either for desertion or for theft, the heavier of the two punishments being applied.³⁸

Finally, receiving stolen goods could be regarded as theft. The Ch'in laws³⁹ show that a person who accepted part of a thief's booty knowing that the whole quantity had been obtained by theft, suffered the same punishment as the thief, namely the punishment corresponding to the value of all the stolen goods. If he accepted part of the booty and he only knew that this particular part had been stolen, with no knowledge about the rest, he was condemned in accordance with the value of that part. If the thief deposited (part of) his booty with someone who did not know that it had been stolen, this was considered as "storing," but unfortunately the texts are silent about the outcome.

As anything could be stolen, the lawgivers never tried to enumerate objects of theft, except in special cases, as mentioned above. But they were sure to signalize these in cases where another factor came into play. This factor might be called religious in the widest sense of the word. It concerns the sacrosanctity of persons and places, beginning with the king or the emperor, the objects he used, his dwelling place and his tomb, and so on. An example of a case where the emperor was concerned, albeit in a very remote way, is that of Hsü Kuang-han 許廣漢. Some time between 94 and 87 B.C. he was a Gentleman at the court of the king of Ch'ang-i 昌邑 when the latter accompanied emperor Wu on one of his visits to Kan-ch'üan 甘泉. Hsü Kuang-han by mistake saddled his horse with the saddle belonging to another Gentleman, whereupon he was formally accused of "theft whilst being in the imperial retinue, warranting the death penalty." By the emperor's grace he saw his punishment commuted to castration.⁴⁰

A typical example of theft with purely religious connotations is the theft of a piece of meat offered in sacrifice to a divinity during an official ceremony. In this way, stealing a kidney worth less than one cash was punished by hard labor,⁴¹ whereas normally the punishment for a theft of this value would have been a mere thirty days' extra statute labor.⁴²

The Ch'in punishment for "thievishly digging in a pit" where sacrificial objects of the royal house had been buried—not only meat, but also jade disks, etc.—is unknown.⁴³ However, similar cases are known for the Han period, and here the information is more detailed.

A Han statute (title unknown) stipulated that "those who steal objects used by the emperor in the ancestral shrines are beheaded"; this law is quoted in ca. 160 B.C. by the Commandant of Justice when judging the person(s) who had stolen jade rings placed in front of the throne in the shrine of emperor Kao.⁴⁴ This law is quoted again, with some modifications, in the subcommentary to the *Book of Documents* by K'ung Ying-ta 孔穎達 (574-648), who writes: "Since Han and Wei times it has been written in the statutes that 'those who venture to steal objects for the Sacrifice in the Suburb [i.e., to Heaven] or from the [imperial] Ancestral Shrines will all [be made to] die, regardless of the quantity.'" ⁴⁵ A fragment of a similar law is found in the *Tu tuan* 獨斷 by Ts'ai Yung 蔡邕 (133-192), which reads: "The Statute says: 'Those who venture to steal objects used by Him who Rides in a Palanquin...,'" where the essential part of the law is omitted, the aim of the quotation being to show the use of this particular synonym for the word "emperor."⁴⁶

The theft of objects from the imperial mausolea resulted in the dismissal of the Grand Ceremonialist who was in charge of these tombs, as is shown by a case which occurred in 62 B.C. when such a theft had taken place in the Mao-ling, the tomb of emperor Wu.⁴⁷ Among the objects that could be stolen from a mausoleum were trees. A post-Han source reports: "In the Han period all the imperial mausolea were subordinate to the Grand Ceremonialist. People who stole cypress trees were publicly executed."⁴⁸ Finally, a case might be adduced where not an imperial sanctuary but an imperial hunting park was the scene of the action: in 111 B.C. a nobleman was deposed, as well as being condemned to four years' hard labor, for having penetrated into the Shang-lin 上林 hunting park⁴⁹ "plotting to steal deer" as well as gambling.⁵⁰

Besides the objects mentioned above, land belonging to shrines could also be stolen; the theft of other kinds of land will be discussed below.

In 148 B.C. the king of Lin-chiang 臨江, Liu Jung 劉榮, was accused of having encroached, *ch'in* 侵, on the land of the shrine to the Grand Exemplar, that is, emperor Wen,⁵¹ more specifically on the area between the outer and the inner wall of the sanctuary, in order to build a palace; he committed suicide, and the state was abolished.⁵² A similar case is that of the imperial Chancellor, Li Ts'ai 李蔡, noble of An-lo 安樂, who committed suicide in 118 B.C. By decree emperor Wu had given him a burial ground of 20 *mu* (ca. 0.9 ha or slightly over two acres) near the mausoleum of emperor Ching, but he had "thievishly taken" three *ch'ing* (ca. 14 ha

or over 30 acres), which he had then had the audacity to sell for 400,000 cash. To top it all, he "thievishly took" a plot of one *mu* from the enclosed mausoleum area outside the spirit-way (leading up to the tomb) to be buried there. The Grand Ceremonialist Li Hsin-ch'eng 李信成, noble of Ch'i 戚, being responsible for the imperial mausolea, was not only dismissed and deposed but was moreover condemned to three years' hard labor.⁵³

Not only palaces and shrines were sacrosanct areas but also military establishments. Tung Chung-shu 董仲舒 (176-104 B.C.) in his *Ch'un-ch'iu chüeh-yü* 春秋決獄 (Decisions in Law Suits according to the Spring and Autumn Annals)⁵⁴ quotes what is evidently a law: "The places where troops dwell are comparable to [the area within] the Majors' [Gates]; trespassing is punished by cutting off the hair."⁵⁵ The area within these gates covered the whole of the palace grounds within its outer walls.⁵⁶ With "places where troops dwell" being compared to the palace grounds, it is no longer astonishing that the theft of arms from an arsenal was punished by beheading.⁵⁷ The main arsenal was situated within the very precincts of the Wei-yang Palace,⁵⁸ and its remains have recently been discovered.⁵⁹ The Han histories show that the commanderies also had arsenals.⁶⁰ Finally, Tung Chung-shu quotes another statute, reading: "In places in the border regions where troops dwell, theft with a value of one hundred cash or more is punished by beheading."⁶¹

Leaving the areas where particular, semireligious conditions prevailed, the question arises whether land could also be stolen in the common everyday world—a question, for the answer is uncertain.

For the Ch'in there exists so far one single rule that appears concerned with the misappropriation of land, but so long as the system of land tenure under the Ch'in remains practically unknown,⁶² it is hard to say whether land could really be stolen. Considering the means employed as described in this rule, the encroachment can only have been very modest seeing that the statute (again unnamed) reads: "Thievishly to shift border marks [is punished by] the redemption of shaving off the beard," the latter indicating hard labor.⁶³

Pending the publication of the Han laws discovered at Chiang-ling 江陵, the Han attitude toward the theft of land remains subject to similar doubts. Here again only one indication that land could be stolen exists, but it is inconclusive. This indication is found in a memorial of 29 B.C., which describes the misdeeds of imperial Chancellor K'uang Heng 匡衡. There it is said that he

had "monopolized land and stolen soil," *chuan ti tao t'u* 專地盜土,⁶⁴ but he was actually sentenced for having infringed another law, as will be discussed below.⁶⁵ It is striking to observe that this very case made the great jurist Shen Chia-pen exclaim: "Could it be that the Han had no law for the theft of land?"⁶⁶

There are, in fact, reasons--albeit negative--to suspect that a formal law concerning the theft of land did not exist. First, in spite of the general, constantly repeated complaint that the rich and powerful *chien ping* 兼並 "absorbed or annexed" the land of the poor, profiting by their poverty, no law for theft was ever invoked against them. Of course, it is easy to argue that *chien ping* is not stealing the land but buying it, and with the consent of the sellers, who had to be content with any price. Perhaps more important is the absence of any reference to the theft of land in A.D. 39 and 40 in the numerous accusations--leading to death penalties--lodged against certain Grand Administrators of commanderies. These men had sabotaged the imperial decree ordering a new and correct survey of all landholdings, for they had "favored the prominent families and encroached on the weak and poor."⁶⁷ This must have been downright illegal expropriation, which could well have qualified as theft, but it did not. If a law dealing with the theft of land did not exist, then the theft of shrine land becomes a different matter. Not the theft of land--nor of cypress trees or jade rings--constituted the crime, but the violation of a sacred area, a sacrilege that could in fact be qualified as *pu tao* 不道, "impious."

So long as the Chiang-ling Statutes on Theft and Robbery are not available, the Han material on theft is very one-sided. On the one hand, the strips found in the northwestern defense lines only contain a few--mutilated--references to stealing that are hardly enlightening. On the other hand, the Han histories have nothing to say about ordinary theft committed by the bulk of the population, but they have all the more to tell about theft by the higher strata of society in the form of embezzlement and graft. And here we find rules that definitely belong to the Han *tao lu*, because a document of A.D. 229 (or thereabouts) states explicitly that the following "headings" belonged to the Han Statutes on Theft and Robbery.⁶⁸

These headings or key terms are, in order of appearance in the text: (1) *chieh lueh* 劫略, kidnapping; (2) *k'ung ho* 恐獨, intimidation; (3) *ho mai mai jen* 和賣買人, selling and buying persons "in harmony," that is, without pressure or bullying between the two trading parties; (4) *ch'ih chih* 持質, holding to ransom;

(5) *shou so chien* 受所監, accepting (gifts) from those whom one supervises; (6) *shou ts'ai wang fa* 受財枉法, accepting money for twisting the law; (7) *po ju ch'iang tsei* 勃辱強賊, in anger to maltreat a robber (who has been arrested); (8) *huan tsang pi chu* 還贓畀主, to return the booty, giving it back to the owner; (9) *tsei shang* 賊傷, to wound intentionally.

These points are only mentioned because the men who compiled the new Wei code, basing themselves on Han law, considered these out of place in the *tao lü* and eventually transferred them to other statutes. This is quite clear for the last term, "to wound intentionally."⁶⁹ Han law would have mentioned this in its rules concerning robbery, where a distinction would have been made between wounds caused in a struggle--and therefore rated as "wounding in a fight"--and wounds inflicted "with evil intent." Because no other details are known on this point, it cannot be further discussed.

Nor is there much to be said about point 7, "in anger to maltreat a robber." Shen Chia-pen offers the explanation for this enigmatic phrase,⁷⁰ finding support in the T'ang code, which stipulates that "when criminals have already been arrested and they do not resist, to kill or to wound them is to be sentenced like killing or wounding in a fight."⁷¹ No Han case law exists on this point.

The other points may be illustrated by means of case law and sometimes even by related articles of the code.

This is the case for point 5, "accepting gifts from those whom one supervises," for which there exists a complete ordinance, *ling* 令,⁷² in its revised version of 156 B.C.; of the earlier version it is merely said that it was too severe on the one hand and too lenient on the other.⁷³ Summarizing the long-winded text, any official who accepted things from the persons who were in his permanent or temporary charge would be punished for theft according to the value of the present. The same rule applied to objects or money presented by former subordinates or people formerly in their charge, with the difference that officials who possessed aristocratic rank would be reduced to commoner status but relieved from the punishment for theft, whereas others would be fined two catties of gold (nominally 20,000 cash). The money or the presents would be confiscated or given to the persons who had denounced or arrested the guilty official. One clear case where this rule was applied exists: in 116 B.C. a nobleman, Grand Administrator of Chiu-chiang

九江 commandery, was dismissed and deposed for having accepted gifts from persons in his former office.⁷⁴

From accepting presents it was but a small step to accepting bribes for a particular purpose. This is formulated in point 6 above as "accepting money to twist the law." The earliest reference to a statute on this subject is made by the commentator Ho Hsiu 何休 (A.D. 129-182)⁷⁵ who quotes a fragment reading *t'u hsing yen hsü shou* (10, recte) *ts'ai* 律行言許受 (賂 recte) 財, "The Statute [says] 'by means of words agreeing to accept goods,'" implying that the bribe had not yet been handed over. This is fully corroborated by a wooden strip found near a watch tower in the Tun-huang area, reading: "When expressing in words agreeing to accept a bribe to corrupt the law, both [parties] will be adjudicated for [the value of] the illegal profit, this being considered as theft; it will be confiscated."⁷⁶ However, in the following cases a formula is found denoting that the bribe had been actually passed, namely *t'ing ch'ing* 聽請, "having acceded to requests." This formula is found in another quotation of the law, this time by the *Han shu* commentator Ju Shun 如淳 (fl. 221-265), who refers to an unnamed statute reading: "In all cases when people on behalf of others make requests to officials to twist the laws, and the deed has already been done, constituting a case of⁷⁷ accepting and acting, all [will be condemned] to become robber guards."⁷⁸ The following cases pertain to this law.

One nobleman was condemned in 135 B.C. for having acted illegally when buying land and houses, also making requests and bribing (an) official(s); he died and the fief was abolished (i.e., reintegrated into the normal administration).⁷⁹ Another was not only deposed but also condemned to three years' hard labor because he had made another person present a document to the throne, twisting the law; this happened in 127 B.C.⁸⁰ A third was deposed and punished with three years' hard labor in 118 B.C. because as Director of the Imperial Clan he had acceded to requests, not fulfilling his duties toward the imperial house.⁸¹ Nothing more is known about either these three men or, of course, their cases.

More interesting, at least from a historical point of view, is the case of Wang Ch'ien 王遷, noble of P'ing-ch'iu 平丘, who occupied the rather important post of Grandee of the Imperial Household.⁸² In the year 68 B.C. he was either executed (*Han shu*) or he committed suicide (*Shih chi*), having been accused of acceding to requests when in charge of the Masters of Writing and accepting six million cash; he had accepted gold and cash from (a) feudal king(s),

and he had allowed "affairs of the Palace" to leak out. Of course, his fief was abolished.⁸³ Although no commentator, ancient or modern, offers any remark on this curious case, about which there exists no further information, I believe it is possible to link it to a case that had occurred just a few months earlier. This concerned Liu Yen-shou 劉延壽, king of Ch'u 楚, who had been both accused of plotting rebellion and forced to commit suicide. This king believed that in case of "an untoward event" (*pien* 變) --evidently the death of emperor Hsüan--Liu Hsü 劉胥, king of Kuang-ling 廣陵, would succeed him, and Liu Yen-shou therefore promised to support him. I suggest that Wang Ch'ien supplied Liu Yen-shou with news from the court, especially about the emperor's health--hence the accusation that he had allowed "affairs of the Palace" to leak out--and that he was liberally rewarded. During the investigation of Liu Yen-shou, Wang Ch'ien's information would have come to light, just as Liu Yen-shou's correspondence with Liu Hsü did, but the latter, at the express command of the emperor, was not prosecuted.⁸⁴

The last case known so far is that of Tu Yeh, noble of Chien-p'ing 建平, who in 8 B.C. was dismissed from his post as colonel in command of the Hsien-ku Pass 函谷關⁸⁵ and sent back to his fief (he was not deposed) because he had "acceded to requests, [a crime of the category] 'disrespect.'"⁸⁶ He had accepted a letter asking him not to cause extra annoyance to emperor Ch'eng's former boon companion, fallen from grace and sent back to his estate.⁸⁷

For the Later Han I have not been able to find similar cases. On the whole, the *History of the Later Han* contains far less detailed information on judicial proceedings than the *History of the Former Han* with its practically verbatim quotation of documents. This is most probably the result of the fateful destruction of the archives in the years 190 and 195, leaving the historian with insufficient material.⁸⁸

Whereas the foregoing cases are examples of accepting bribes or acceding to requests, the following ones concern attempts at bribery; the details are none too clear. In 163 B.C. a nobleman was deposed, as well as condemned to five years' hard labor because of bribery.⁸⁹ In 128 B.C. a concubine of the recently deceased king of Chiang-tu 江都 and the mother of his youngest son attempted to have the heir-apparent declared unfit to succeed his father because of his scandalous behavior. She therefore had a certain She Kua 荼恬 present a document to the throne, denouncing the heir-

apparent as lecherous and incestuous, unfit to be the late king's successor. This led to a trial of She Kua! He was beheaded for having accepted money and goods in order to present this document.⁹⁰ Finally, in 124 B.C. a nobleman lost his fief, but without receiving further punishment, for having hidden his son--who had wounded somebody--and for having given bribes, probably in order to save his son.⁹¹

Another phrase the Wei jurists considered wrongly included in the Han Statute on Theft and Robbery was *huan tsang pi chu*, "to return the booty, giving it back to the owner" (point 8 above). Shen Chia-pen⁹³ connects this with a pronouncement of Chang Fei 張斐 in his memorial of A.D. 268, reading: "In cases of obtaining lost objects, or taking things by force, when there exists no rule for returning booty, these things are given back according to the precedents."⁹⁴ Shen then quotes a T'ang rule: "In all cases when people are condemned because of booty and the actual booty is available, this is returned to the authorities or to the owner"; here the official T'ang exegesis of this rule explains that government property is returned to the government and private property to the owner.⁹⁵ For the sake of completeness, Uchida remarks that "booty" obtained through bribery was, of course, impounded by the government.⁹⁶ Here a Ch'in statute and its explanation should be quoted: "When a thief [or robber] robs somebody and he sells what he has stolen, thereby buying other things, all are given back to the owner," the explanation adding that only the things the thief had bought were given to the victim of the theft, but not the objects which he had originally stolen and then sold.⁹⁷ This would seem to protect the unsuspecting buyer of the stolen goods.

The phrase "taking (or demanding) things by force" mentioned in the foregoing paragraph leads naturally to another phrase in the quoted list, namely *k'ung ho* 恐獨, "intimidation," also belonging to the Han *tao yü*. No other related passage from the statute has been preserved in the traditional literature, but the *Han shu* mentions several cases. As is only to be expected, they only concern members of the upper strata of society; it is striking that in all four cases the culprits were members of the imperial Liu clan.

In 120 B.C. one nobleman was judged for having intimidated people and taken away their chickens, "for which according to the Ordinance⁹⁸ he should have paid"; for this he was deposed. But "he also lied," which led to his condemnation to four years' hard labor as a *ch'eng tan*.⁹⁹ In 115 B.C. another nobleman was beheaded because he had bound and intimidated his steward in order to obtain a bribe, perhaps in connection with his having killed people.¹⁰⁰ A further

member of the Liu clan was merely deposed in 35 B.C. for having intimidated people in his fief and taken money and goods from them.¹⁰¹ The same fate befell another in 19 B.C. for having likewise intimidated inhabitants of his domain and taken money, the booty being more than 500 cash. It is hard to say whether his punishment would have been less severe if he had taken less.¹⁰²

Two of the other headings or phrases from Han law quoted in the *Chin shu*¹⁰³ are clearly related because in several imperial decrees they are mentioned together. These phrases are *chieh lüeh* 劫略, "kidnapping," and *ho mai mai jen* 和買賈人, "trading persons without constraint."¹⁰⁴ Now *chieh-lüeh* and the word *lüeh* by itself both have two different meanings, namely "to raid a region" and "to kidnap,"¹⁰⁵ but kidnapping as a crime is only indicated by the single word *lüeh*. Two cases are known. In 130 B.C. a nobleman was beheaded for having kidnapped someone's wife.¹⁰⁶ And in 18 B.C. another nobleman was deposed for having kidnapped and enslaved a former slave-woman who had been able to buy her freedom.¹⁰⁷

Although the two words *lüeh*, "to kidnap," and *mai*, "to sell," are found in combination in earlier texts,¹⁰⁸ in the edicts of Kuang-wu 光武, the founder of the Later Han, kidnapping and selling are meaningfully combined; this also remained usual in later ages.¹⁰⁹ An edict of A.D. 31 stipulates that persons who had been kidnapped and enslaved during the civil war were to be allowed to leave their owners, whereas those who kept them back were to be dealt with according to the laws concerning *selling* people, but an edict of 38 repeating this injunction threatens offenders with punishment according to the laws of *kidnapping*.¹¹⁰ An edict of 39, instead of threatening punishment, reassures the people who had sold the victims of kidnapping that they would not have to return their price, that is, the proceeds of the sale.¹¹¹ From this stipulation it is possible to draw the conclusion that the law on kidnapping must have contained the rule that the sellers had to indemnify the buyers, besides being punished for kidnapping. However, the reason why this exception was included in the edict is unclear because now the buyers of such slaves, and therefore the very persons most inclined to keep them back, would suffer a double loss: they would not only lose their slaves but also the reimbursement of their price!

The next phrase from the Han *tao lü* quoted in the *Chin shu*,¹¹² namely *ch'ih chih* 持質, is closely related to the preceding, but the two crimes were different in purpose. When committing *lüeh*, kidnapping, the object was to acquire slaves. However, the kidnapers who *ch'ih chih*, "held pawns or hostages," wanted

ransom. Two texts show that the punishment for holding persons to ransom was death;¹¹³ other incidental stories about ransoming, occurring in the course of several centuries, do not mention punishments.¹¹⁴ To be complete, mention should be made of a Ch'in rule; although it does not mention ransom, in my opinion it comes close to it. This rule forbids creditors to use force in taking "human pledges" from their debtors; also the taking as well as the giving of such pledges "in harmony," hence with mutual consent, was heavily fined.¹¹⁵ The point is that such human pledges--the debtor's wife or children or even the debtor personally--risked becoming the creditor's slaves in case the debt was not repaid within a fixed period.¹¹⁶

Finally, cases of financial malversations remain to be discussed. The Ch'in texts provide examples of embezzlement by members of the lower echelons of the administration. The Statute on Granaries required that the contents of these stores should be regularly checked¹¹⁷ and that unexpected surpluses and shortages should be reported; they also indicated which members of the responsible personnel should be obliged to make good the shortages.¹¹⁸ In order to stop an obvious expedient to which the granary staff might easily resort, the Statutes on Checking laid down that any fraudulent manipulation of the stocks¹¹⁹ and of the relevant documents in order to cover up shortages was to be punished as theft.¹²⁰ This implied, of course, that the value of the shortage determined the punishment. The historical texts that cover the Former and the Later Han cannot afford to go into such details. The cases of financial malversation recorded there all concern high-ranking officials, and the quantities or rather their money value are anything but the modest amounts at stake at the village level.

So far, we know two rules among the statutes that are related to financial crimes. One is the general stipulation that "a definite or temporary appointee stealing to the value of ten [catties of] gold [i.e., 100,000 cash] is beheaded."¹²¹ In several cases where large sums were involved, the crime was considered to be so serious as to be qualified as *pu tao*, "impious," deserving the death penalty.¹²² Here a remark by the commentator Meng K'ang 孟康 (fl. 180-260) is of importance when he explains the phrase in the statute as *tuan kuan-ch'ien tzu ju chi* 斷官錢自入己, "to cut off government funds and personally to enter these into one's own pocket"¹²³ because in some Later Han texts the expression *tuan tao* 斷盜 is used.

The other extant rule is, curiously enough, of local importance, being limited to the border areas and not applicable to the whole empire.¹²⁴ It is only known because of an edict of A.D. 42

ordering its abolition; the edict has been summarized by the historian, but its purport is clear: "In commanderies on the border, for the theft of fifty bushels of grain the punishment is extended to [the] death [penalty]." ¹²⁵ Perhaps this rule was created in the late twenties of the first century, during the civil war, when one Chinese bushel cost four thousand cash ¹²⁶ and fifty bushels (i.e., ca. 1,000 liters) would have had a value of 200,000 cash.

As regards actual cases, there are two *causes célèbres* of the Former Han. In the spring of 72 B.C. Minister of Agriculture (in actual fact Minister of Finance) T'ien Yen-nien 田延年, noble of Yang-ch'eng 陽城, committed suicide when it was proved that he had embezzled thirty million cash, or, to quote one of the sources, that "he had stolen 30,000,000 cash from the General Treasury." When submitting the accounts for the building of emperor Chao's grave mound, he had simply doubled the cost of transporting the sand needed for this purpose, noting 2,000 cash for each of the 30,000 cartloads instead of the 1,000 cash that he had actually paid. His crime is qualified as "impious." ¹²⁷

The second case occurred in 29 B.C. K'uang Heng, when appointed Chancellor in 36 B.C., had been enfeoffed as noble of Lo-an 樂安. Due to a mistake in the map of Lin-huai 臨淮 commandery where the fief was located, he was given four hundred *ch'ing* (ca. 1,830 ha or seven square miles) too much. But although K'uang Heng became aware of this in 32 B.C., he continued to have his servants collect the land tax for the whole area, receiving over a thousand bushels beyond his due. At emperor Ch'eng's express command, K'uang Heng was not tried--which might have resulted in the death penalty--but he lost his exalted post as well as his fief, being reduced to the status of commoner. ¹²⁸ Several more cases of officials embezzling large sums are mentioned in the *Han shu* but without further significant information. ¹²⁹

The Later Han also knew a few cases of embezzlement where large sums were at stake. In December A.D. 39 the Grand Minister over the Masses (i.e., the earlier Chancellor) died in jail, having been accused of embezzling more than ten million cash during the years 30 to 39, when he was Grand Administrator of Ju-nan 汝南 commandery. ¹³⁰ In 119 a general was condemned to death because, during the campaigns against the Western Ch'iang, he had *tuan tao* 斷盜 "cut off and stolen" more than ten million cash. ¹³¹ The regional inspector of Lung-hsi had abused the system of military levies during the campaigns against the Ch'iang and, among others, against

a Chinese rebel, pocketing several million cash in 184, for which he was condemned, probably to death.¹³² In about 200 the later famous Liu Piao 劉表, at the time Shepherd (i.e., governor) of Ching 荊 Province (which included the southern part of modern Honan, as well as Hupei and Hunan) was accused of keeping back the tax receipts, "cutting off and stealing the baskets with tribute," but the case was dropped.¹³³ And finally, in about 217 a prefectural official was accused of "cutting off and stealing" official funds,¹³⁴ for which the punishment was public execution, but because he was the brother-in-law of the heir-apparent the case was quashed.¹³⁵

In conclusion, I here add an article that exemplary scholar Shen Chia-pen¹³⁶ included among the rules on theft, although I fail to understand why he did so. The article, or rather the phrase, is *t'ung hsing yin-shih* 通行飲食, "to help [fugitives] pass and to provide them with food and drink"; from the texts it is clear that this was a punishable offense, which might even lead to the death penalty.¹³⁷ The seventh-century commentary to the *Hou Han shu* equates this phrase with the expression in the T'ang code, *kuo chih tzu chi* 遇致資給, explained in the official exegesis of the code as "to indicate roads and paths, to help through dangerous passages, to assist in transport, and to supply with provisions."

The T'ang code includes this article in the chapter *pu wang* 捕亡, "arresting fugitives,"¹³⁸ which also contains rules for the punishment of those who hid criminals, and so forth. Shen has collected Han examples of "hiding" and rightly inserted these in his chapter on the Han Statute on Arresting, *pu lu* 捕律.¹³⁹ Why did he not also insert *t'ung hsing yin-shih* there?

After this survey of the wide field of misdemeanors and crimes qualified as theft in Ch'in-Han law, from petty larceny to stealing objects in shrines and from malfeasances in village granaries to the embezzlement of tens of millions, a final word must be said about the pursuit of thieves. The Yün-meng texts also contain material on this point, interesting enough to be quoted although only indirectly related to the purely legal aspects of theft and robbery.

Apart from the information on the work of the police detectives found in these texts,¹⁴⁰ the Yün-meng finds include a curious guide on thief-catching which forms part of the mantic texts, collectively called *jih shu* 日書, "writings concerning the days."¹⁴¹ These "calendars" indicate the days that are favorable for all kinds of undertakings—from sewing garments to building a house or going on a journey—and those that are unfavorable. Such lists are still

published in traditional almanacs; already in the first century of our era Wang Ch'ung ridiculed their use.¹⁴²

The "guide" is intimately connected with the calendar because the information it provides is entered under each day indicated by the cyclical characters corresponding to the cycle of the Twelve Animals: *tzu* 子 for the Rat, and so on. When using the guide, one looks for the day when the theft had occurred, and there one finds a description of the thief, an indication where he hid the booty, and an indication of his name. For example, the thief of the day of the Rat would have a sharp, pointed face, a sparse beard and nimble fingers, as well as a swarthy complexion, a mole on his face, and scars on his ears. The booty he would have hidden either in the hedge or in the refuse heap, and his name would be *shu* 鼠 Rat, or *hsi* 鼠 Mouse, or *k'ung* 孔 Hole,¹⁴³ etc. The text continues in this way for the other eleven animals of the cycle.

This guide is more than a mere curiosity or just another example of ancient beliefs, and this is evident from the place where it was found. The guide and the other far more extensive mantic texts were discovered together with a large collection of juridical material in the tomb of a man whose official tasks included trying lawsuits!¹⁴⁴ Professor Kudo's supposition is therefore fully warranted that this man and his subordinates would have actually used the indications in the guide for their daily duties.¹⁴⁵

Summarizing the main points discussed above, in the Ch'in-Han period any action that could be construed as "taking things"—in the widest sense—"that were not one's own" was described as *tao*. In this way, not only actual theft and burglary and robbery were called "theft," but any illegal appropriation of any substance, executed in any way. As a result, intimidation, extortion, kidnapping, and ransoming entered into the sphere of *tao*, as did embezzlement. In the course of the discussion it was observed that the punishment for theft was determined by the value of the stolen goods, except in cases where the sacrosanctness of persons or places had been violated. Thefts of the emperor's belongings or of objects in his ancestral shrines or tombs, thefts perpetrated in the palace grounds or in military areas that were assimilated to the palace—all these were punished far more severely, often with death. But fundamentally, I believe, the guidelines remained the same in all cases: when things that were not one's own—goods, money, persons—had been taken away, sometimes under aggravating circumstances, all these actions, which in occidental law might be called by other names, were *tao*, theft, for the Ch'in-Han Chinese.

Postscript

Some time after having sent the above contribution to the editor, I received offprints of two articles, both closely related to the subject discussed above. These are: Hori Tsuyoshi 堀毅, "Shin Kan tōritsu kō" 秦漢盜律攷, in *Toyō hōshi no tankyū-- Shimada Seirō hakase jōju kinen ronshū* 東洋法史の探究 -- 島田正郎博士頌壽記念論集 (1987), pp. 119-156. This article supplements my contribution in several respects. Liu Hai-nien 劉海年, "Kuan yü Chung-kuo sui hsing ti ch'i-yüan, ch'ien t'an hsing-t'u ti hsing-ch'i ho li ch'en ch'ieh ti shen-fen" 關於中國歲刑的起源兼談刑徒的刑期和隸臣妾的身份 in *Fa-hsüeh yen-chiu* 法學研究 3 (1983), pp. 67-76. and volume 5 (1985), pp. 68-73. On pp. 70ff. of vol. 5 the author discusses the much-disputed question: under the Ch'in were all hard-labor punishments lifelong? He arrives at the conclusion that they were not. This forms a useful supplement to note 12 in my article.

9, chemin de la Côte
1680 Romont, Switzerland

ABBREVIATIONS

- Bielenstein, *Bureaucracy* Hans Bielenstein, *The Bureaucracy of Han Times*. Cambridge: Cambridge University Press, 1980.
- Chavannes, *Stein* Edouard Chavannes, *Les Documents chinois découverts par Aurel Stein dans les sables du Turkestan oriental*. Cambridge: Cambridge University Press, 1913.
- Chia-pien* Chü-yen Han-chien, *chia-pien* 屈延漢簡甲編. Peking: K'e-hsüeh ch'u-pan-she, 1959.
- Classics* Shih-san-ching chu-su 十三經注疏. Ssu-pu ts'ung-k'an ed., reprint Peking: Chung-hua shu chü, 1957.
- CS *Chin shu* 晉書. T'ung-wen ed.

- CTCC *Chu-tzu chi-ch'eng* 諸子集成, 8 vols. Peking: Chung-hua shu-chü, 1954.
- HFHD H. H. Dubs, *The History of the Former Han Dynasty*. 3 vols. Baltimore: Waverly Press, 1938, 1944, 1955.
- HHS Fan Yeh 范曄, *Hou Han shu* 後漢書; references are to Wang Hsien-ch'ien 王先謙, *Hou Han shu chi-chieh* 後漢書集解. Ch'ang-sha, 1924; reduced facsimile reprint, Taipei, 1965.
- HS Pan Ku 班固, *Han shu* 漢書; references are to Wang Hsien-ch'ien, *Han shu pu-chu* 漢書補注. Ch'ang-sha, 1900; reduced facsimile reprint, Taipei 1965.
- Lao Kan Lao Kan 勞幹, *Chü-yen Han-chien, k'ao-shih chih-pu* 居延漢簡, 考釋之部. Taipei: Academia Sinica, 1960.
- Mh Edouard Chavannes, *Les Mémoires historiques de Se-ma Ts'ien*, 5 + 1 vols. Reprint, Paris, 1969.
- RCL A. F. P. Hulsewé, *Remnants of Ch'in Law*. Leiden: Brill, 1985.
- RHL -----, *Remnants of Han Law I*. Leiden: Brill: 1955.
- SC Ssu-ma Ch'ien 司馬遷, *Shih chi* 史記; references are to Takigawa Kametaro 瀧川龜太郎, *Shiki kaichū kōshō* 史記會注考證. Tokyo: 1934; reprinted in Taipei.

- Shen, *HLCI* Shen Chia-pen 沈家本, *Han lü chih-i* 漢律摭遺. Anastatic reduced reprint of the undated block-print, in *Jen-jen wen-k'u* 人人文庫, t'e 特 451-453. Taipei: Commercial Press, 1976.
- SS Shui-hu-ti Ch'in-mu chu-chien cheng-li hsiao-tsu 睡虎地秦墓竹簡整理小組, *Shui-hu-ti Ch'in-mu chu-chien* 睡虎地秦墓竹簡. Peking: Wen-wu ch'u-pan-she, 1978.
- TL*SI* T'ang lü su-i 唐律疏義; references are to the Wan-yu wen-k'u 萬有文庫 ed., vols. *shih* 士 342.7118, 0248, in 4 vols. Shanghai: Commercial Press, 1929; reprinted since then.
- Uchida Uchida Tomo'o 內田智雄, *Yakuju* *Chūgoku rekidai keihōshi* 譯注中國歷代刑法志. Tokyo: Sobunsha, 1964.
- Watson, *Records* Burton Watson, *Records of the Grand Historian of China*, translated from the *Shih-chi of Ssu-ma Ch'ien*, 2 vols. New York: Columbia University Press, 1961, 1962.
- Wilbur, *Slavery* Martin C. Wilbur, *Slavery in China during the Former Han Dynasty, 206 B.C.-A.D. 23*. Chicago: Field Museum of Natural History, 1943; reprinted in Taiwan.

NOTES

A version of this article was presented in absentia at the annual meeting of the Association for Asian Studies, in Boston, on 12 April 1987. The article was submitted in final form on 18 December 1987.

1. See the brief survey in *Wen-wu* 1985.1:8.
2. *Tso chuan*, Hsi 24 and Wen 18; *Classics* 15.9a (0603) and 20.7b (0832); Couvreur, tr., vol. 1, pp. 356, 554. Also *Hsün-tzu*, ch. 2, "Hsiu-shen" 脩身, *CTCC*, vol. 2, p. 14; H. H. Dubs, *The Works of Hsüntze* (London: Probsthain, 1928), p. 46.
3. Ting Fu-pao 丁福保, *Shuo-wen chieh-tzu ku-lin 說文解字詁林* (1st ed. 1931; reprint in 17 vols., Taiwan Commercial Press, 1976), vol. 9, p. 3903a.
4. *Ku-liang chuan*, Ting 8; *Classics* 19.6b (0438).
5. *Ch'u fei ch'i wu wei chih tao* 取非其物謂之盜; *CS* 30.15b; Uchida, p. 129. This definition is found in the A.D. 269 memorial with which Chang Fei 張斐 presented the new statutes of Wei to the throne; it is to be noted that this collection consisted basically of the Han code. For 斐 instead of the current 裴 see Uchida, p. 129, n. 2. See also Benjamin E. Wallacker, "Chang Fei's Preface to the Chin code," *T'oung Pao* 72 (1986), p. 242.
6. *RCL*, p. 125, D 17; *SS*, p. 159. The rendering "foster-father" for *chia fu* 假父 is provisional; "stepfather" seems unlikely. "Adoptive father" is a possibility, but the modalities of adoption are unknown.
7. For "receiving," see below, p. 171.
8. See *RHL* I, p. 178, and *RCL*, p. 121, n. 7; Wallacker, "Chang Fei's Preface," p. 242.
9. *RCL*, pp. 129-130, D 27 and 28; *SS*, pp. 165-166.

10. *Lu yüeh tsang kuan-wu fei lu che i shih-yüeh p'ing-chia chi* 律曰
 臧官物非錄者以十月平賈計. Lao Kan, p. 126, no. 5995 (380)
 4.1; *Chia-pien*, transcription p. 2, no. 11.

11. The multiples of eleven are probably connected with the value of eleven cash for the curious medium of exchange under the Ch'in, viz. the "cloth," *pu* 布, for which see *RCL*, p. 52, A 43 and 44; *SS*, p. 56. Although under the Han this medium seems to have no longer been used, a strip of the first century B.C. found in the Tun-huang area reads "[the booty] was fully 220 cash"; see Chavannes, *Stein*, p. 49, no. 273, T.vi.b.i.142. Other Han indications of value are in fifties and hundreds: "more than 250," "more than 500"; see *HS* 15B.19b, 17.16b, 78.8a.

12. *RCL*, pp. 122, 129, 130; D 6, 27, 28; *SS*, pp. 154, 165, 166. In the Han period the hard labor would have been for 3 or, in a given case, 5 years, but for the Ch'in the duration of these punishments is unknown; see *RCL*, pp. 16ff. Many Chinese and Japanese scholars believe that under the Ch'in and during the early decades of the Han all condemnations to hard labor were for life. For the clearest expression of this view see Momiyama Akira 叔山明, "Shin no 秦の reizoku mibun to sono kigen--reishinshō mondai ni yosete" 隸層身分とその起源 -- 隸臣妾問題に寄せて, in *Shirin* 史林 65 (1982). The theoretical list of values of the booty and the corresponding punishments by Tomiya is wholly speculative; see Tomiya Itaru 富谷至, "Renzasei to sono shūhen" 連坐制とその周辺, in Hayashi Minao 林巳奈夫, ed., *Sengoku jidai shutsudo bunbutsu no kenkyū* 戦国時代出土文物の研究. (Kyoto: Jinbunkagaku kenkyūjo, 1985), p. 525, n. 13.

13. Li Hung-fu 李洪甫, "Chiang-su Lien-yün-kang shih Hua-kuo-shan ch'u-t'u ti Han-tai chien-tu" 江蘇連雲港市華果山出土的漢代簡牘, in *K'ao-ku* 1982.5:477. This is evidently a routine report to a superior authority, as indicated by a strip from Chü-yen which mentions that "the lawsuits of the 4th month have been copied and forwarded"; see Lao Kan, p. 99, no. 4791 (95.04). The report is perhaps connected with another document found there, which records the transfer of men to the office of the Grand Administrator. The area of present-day Lien-yün-kang (near the silted-up port of Hai-chou) is probably identical with the Han time Ch'u 朐 Prefecture in Tung-hai commandery; see *HS* 28Aiii.10a and *HHS* Treatise 21.16a.

14. *HHS* Memoir 36.11b.

15. See *RCL*, pp. 120, 153, 155, 190; D 1, 94, 105, E 12; *SS*, pp. 150, 200, 205, 255. It is unknown whether in the third century B.C. the connection between banditry and popular upheavals was clearly realized, but from the *Shih chi* (*SC* 6.75, *Mh* II, p. 205) it would appear that the Second Emperor's ministers did realize the danger. However, Ssu-ma Ch'ien, writing more than a century later, may have applied hindsight when composing their speeches, of which, of course, no records existed. Still, it does not follow that the authors of the Ch'in code many decades earlier also shared these views. In 99 B.C. the relation would have been quite clear to the administration because these "robber bands" now adopted slogans and titles, a sure sign of a popular revolt. But, as far as I am aware, only at the beginning of the second century did a statesman explicitly state that the logical sequel to widespread banditry was popular uprisings; see *HHS*, Memoir 36.11b.

16. See *RCL*, p. 121, n. 5.

17. E.g., *tao ch'u ya* 盜賊崖 and *tao hsi feng* 盜徙封; see pp. 171 and 172.

18. *RCL*, p. 63, A 64, strip 119; *SS*, p. 76.

19. *RCL*, p. 189, E 9; *SS*, p. 252.

20. *RCL*, pp. 135, 159, D 45 and 116; *SS*, pp. 175, 209.

21. *RCL*, p. 159, D 118; *SS*, p. 211.

22. *HS* 17.17b; *SC* 20.29, *Mh* III, p. 166, no. 49; see also Wilbur, *Slavery*, p. 394, no. 86. The illegal profit being so large, the crime was considered as *pu tao*, "impious," for which see *RHL* I, pp. 178ff.

23. *HHS*, Memoir 31.10b.

24. *HHS*, Memoir 21.15b.

25. Hsü Chiu 許九, noble (*hou* 侯) of Sung-tzu 宋子. *HS* 16.40a; *SC* 18.97, *Mh* III, p. 140, no. 100. As no further information is available on these "forbidden goods," *chin wu* 禁物, their nature remains unknown. One possibility for solving the difficulty would be to assume that also during the Han period the character 買

mai (third tone), "to buy," was used for 買 *mai* (fourth tone), "to sell," as frequently observed in the Ch'in laws; see e.g., *RCL*, pp. 53, 108, 126, 153, A 46, C 8, D 20, 96; *SS*, pp. 57, 133, 160, 202. The forbidden goods would then have been goods whose sale to the Hsiung-nu was prohibited, like young and big horses, and crossbows and their trigger mechanisms; see *HS* 5.6b and 7.4a; *HFHD* I, p. 321, and II, p. 159 and n. 4.1. Because trigger mechanisms were quite small, they might have been easy to smuggle.

26. Attributed to Liu Hsiang 劉向 (79–8 B.C.) in *HS* 36.24b, but the present text is most unreliable. It is inaccessible to me; I follow the quotation in Shen, *HLCI* 13.16b.

27. See, e.g., the *Chiu-chang suan-shu* 九章算術 (Shanghai: Commercial Press, *Ts'ung-shu chi-ch'eng* ed., 1936), pp. 38, 99, 109; Kurt Vogel, *Neun Bücher arithmetischer Technik*. Ostwalds Klassiker der exakten Wissenschaften (Braunschweig: Vieweg, 1968), pp. 28, 63, 69.

28. P'an-yü was taken by the Chinese in the winter of 112–111 B.C.; see *HS* 6.22b; *HFHD* II, p. 82. The Ch'in never took it.

29. These products are listed in *SC* 129.4 and 26; N. L. Swann, *Food and Money in Ancient China* (Princeton: Princeton University Press, 1950), pp. 420, 446; Watson, *Records* II, pp. 447, 489. See also *HS* 28Bii.67b–68a; and *HHS*, Memoir 21.15a.

30. *RCL*, p. 162, D 127, 128; *SS*, p. 215. The spilling of grain inside the store as well as the presence of rats and mice was also punished; see *RCL*, pp. 162–163, D 129, 130; *SS*, pp. 215–216.

31. *RCL*, p. 163, D 132; *SS*, p. 217. See also *RCL*, p. 43, A 31; *SS*, p. 46, an article in the Statute on Granaries, for an attempt to prevent the double issue of rations.

32. *RCL*, p. 108, C 8; *SS*, pp. 133–134.

33. *RCL*, p. 18. This use of *tzu* seems to be particular for Ch'in law; in Han times fines were called *fa chin* 罰金; see *RHL* I, pp. 124ff.

34. *Shu* 戍. As shown by Morohashi Tetsuji's 諸橋鞅次 dictionary *Dai Kan Wa jiten* 大漢和辭典, vol. 5, p. 4, all ancient authors agree that the single word *shu* meant service in the frontier defense lines.

35. *Yen-t'ieh lun* 鹽鐵論 (The Discussions on Salt and Iron), ch. 55, "Hsing te" 刑德, *CTCC* vol. 7, p. 56.

36. Liu Sui 劉遂, noble of P'ing 平. *HS* 15A.27a (the crime is not mentioned in *SC* 21.24). That he was condemned to hard labor is shown by the remark that in spite of an amnesty he was still obliged to work off the full term of his punishment, though no longer in chains and the red convict's garb; this is implied by the term *fu tso* 復作, explained in *RHL* I, pp. 240ff.

37. *RCL*, p. 129, D 26; *SS*, p. 165.

38. *RCL*, p. 157, D 107; *SS*, p. 206. For lending tools etc., see *RCL*, pp. 59-60, A 56-57, Statutes on Artisans, *SS*, pp. 71-73. The punishment was to be commensurate with the value of the tools or arms, whereas the punishment for absconding was calculated according to the number of days of the runaway's absence; see *RCL*, p. 187, E 6; *SS*, p. 278.

39. *RCL*, p. 123 f., D 8 f.; *SS*, p. 154 f. In D 13 and 14 the thief puts his booty in *ch'i so* 妻所, "his wife's place." This does not imply that husband and wife each had a "place" of their own, with all the conclusions the legalistic mind might be induced to draw. So here means "whereabouts," a vague term, like *so* after figures, meaning "about." The use of *so* following a name or a title is quite ancient, for it is already found in the *Book of Odes*, ode

78, "T'ai-shu yu t'ien" 太叔于田, where the hunter presents a tiger *yu kung-so* 于公所, "at the lord's 'place'"; see B. Karlgren, *The Book of Odes*, p. 53. The thesaurus, *P'ei-wen yün-fu* 佩文韻府 (Taiwan Commercial Press, 7-vol. ed. 1966), vol. 3, p. 1643, has many other examples, such as *wang-so* 王所, *chün-so* 軍所, etc. The very combination *ch'i-so* is also found in a Later Han document, which I translated in "A lawsuit of A.D. 28," in W. Bauer, ed., *Studia Sino-mongolica: Festschrift für Herbert Franke* (Wiesbaden: Steiner, 1979), pp. 27, 28, strips 14 and 25.

40. *HS* 97A.21b. The king of Ch'ang-i was installed in 97 B.C. (*HS* 6.35a; *HFHD* II, p. 109; *HS* 14.21a). Between this date and emperor Wu's death the emperor visited Kan-ch'uan in 94, 89, 88 and 87 B.C.; see *HS* 6.36a, 38a, 38b, 39a; *HFHD* II, pp. 111, 117, 118, 119.

41. *RCL*, p. 127, D 21; *SS*, pp. 161ff. The punishment indicated by the text is "shaving off the beard," which implies hard labor (see

RCL, pp. 15ff.). The editors of *SS* suggest that the culprit may have been condemned to labor as a bond-servant; during the Han this was for a period of three years, but for the Ch'in the length of the term is unknown; cf. n. 12 above.

42. *RCL*, p. 122, D 6; *SS*, p. 154.

43. *RCL*, p. 128, D 23; *SS*, p. 163.

44. *HS* 50.3b; *SC* 102.9; Watson, *Records* I, p. 537. The function of the throne in the shrine is unknown. *HS* 19B.7a dates the appointment of the Commandant of Justice in question, Chang Shih-chih 張釋之 to 177 B.C., but, as pointed out in the *pu-chu* commentary, this date is hardly possible; a time around 160 B.C. for both the appointment and the incident is more likely.

45. *Shang shu*, "Wei-tzu," *Classics* 10.10b (0352). Shen, *HLCI* 2.1b, suggests that this was not a Han but a Wei law.

46. *Tu tuan* (The Solitary Decisions), p. 1a or 1b, depending on the edition of the *Han Wei ts'ung-shu*. The passage is quoted by P'ei Yin 裴駟 (fl. 465-472) in his *chi-chieh* commentary in *SC* 9.36 (not quoted in *HS* 40.24a).

47. The functionary in question was Jen Kung 任宮, noble of I-yang 弋陽侯; *HS* 17.27a, 19B.32b, 79.7a. He did not lose his fief, which on his death was, according to custom, inherited by his son. A similar theft occurred in 116 B.C., when "people had thievishly dug up money buried in the mausoleum park of emperor Wen," but no further details are available, because the incident is only mentioned in passing; *HS* 59.5b; *SC* 122.22; Watson, *Records* II, p. 434.

48. This is a quotation from the lost *San-fu chiu-shih* 三輔舊事 in the encyclopedia *T'ai-p'ing yü-lan* 太平御覽 954.4a. It is to be noted that the *TPYL* of 983 does not quote pre-T'ang literature from the original works but from quotations in the sixth and early seventh-century encyclopedias; see Tjan Tjoe Som, *Po-hu t'ung*, vol. I (Leiden: Brill, 1949), pp. 60-61.

49. For this park, see Yves Hervouet, *Un poète de cour sous les Han: Sseu-ma Siang-jou* (Paris: Presses universitaires de France, 1964), pp. 222-223.

50. Chang She 張捨 (SC Chih 指), noble of An-ch'iu 安丘. *HS* 16.43a; *SC* 18.85; *Mh* III, p. 136, no. 69; see also *RHL* I, p. 130. Shen, *HLCI* 2.3a, remarks that Chang She must only have "plotted" to steal deer without success, so that he was punished for gambling. Two reasons may be adduced for the severity of the punishment: trespass into a forbidden area, and, perhaps, gambling during a period when such amusements were forbidden, e.g., during mourning, as is shown by other examples.
51. Such shrines had been erected all over the empire; see *HS* 73.9b; cf. *HFHD* II, pp. 289ff.; and Michael Loewe, *Crisis and Conflict in Han China* (London: Allen and Unwin, 1974), pp. 179ff.
52. *SC* 11.9, 17.47, 59.5; *Mh* II, p. 503, III, p. 101, xvi, no. 2; Watson, *Records* I, p. 451; *HS* 5.6a; *HFHD* I, p. 319; *HS* 14.17a, 53.3b.
53. For Li Ts'ai: *SC* 20.11, 22.24; *Mh* III, p. 178, no. 171, p. 198; *HS* 6.16b; *HFHD* II, p. 66; *HS* 17.9a, 19B.18b, 54.9a. For Li Hsin-ch'eng: *SC* 18.114; *Mh* III, p. 143, no. 128; *HS* 16.56b, 19B.18b; see also *RHL* I, p. 186, no. 6.
54. A work of which only isolated passages survive. These have been collected in Shen, *HLCI* 22.4a-5b, and in Ch'eng Shu-te 程樹德, *Chiu-ch'ao lü-k'ao* 九朝律考 (Shanghai: Commercial Press, 1927; reprinted later), vol. I, 7.2-4.
55. Quoted by Shen, *HLCI*, and Ch'eng, *Chiu-ch'ao lü-k'ao*, from the eighth-century encyclopedia, *Po shih liu t'ieh* 白氏六帖, ch. 91.
56. These walls were pierced by four gates, each gate being under the charge of a major, hence the name; see P'ei Yin's commentary in *SC* 7.22; *Mh* II, p. 268, n. 4 (cf. *HS* 31.15a). See also Bielenstein, *Bureaucracy*, pp. 31ff.
57. According to Tung Chung-shu, *apud* Shen and Ch'eng.
58. See *HS* 1B.12b; *HFHD* I, p. 118; and Chang Tsung-hsiang 張宗祥, ed., *San-fu huang-t'u* 三輔黃圖 (Shanghai, 1958), p. 14.
59. See *K'ao-ku* 1978.4:261-269.

60. *HS* 10.7b, 10a, 12b, 12.6b; *HFHD* II, pp. 391, 399, 407; III, p. 77. See also Yang Hung 楊泓 in *Wen-wu* 1982.2:78 and Ch'en Chih 陳直, *Han shu hsin-cheng* 漢書新證 (Tientsin: Jen-min ch'u-pan-she, 1979), p.110.
61. According to Tung Chung-shu, *apud* Shen and Ch'eng.
62. See the remarks on landownership in my "The Influence of the 'Legalist' Government of Qin on the Economy as Reflected in the Texts Discovered in Yunmeng County," in S. R. Schram, ed., *The Scope of State Power in China* (Hongkong: Chinese University Press, 1985), pp. 215-218.
63. *RCL*, p. 164, D 136; *SS*, p. 178. Border marks were small mounds of earth, less than one meter high; see *RCL*, p. 212. A curious feature of the Ch'in punishments was the condemnation to *redeem* a certain punishment, which was therefore equivalent to a fine. Other articles show that in case the defendant was unable to pay he did not have to suffer the punishment he could not redeem, but was made to work off his debt at the rate of six or eight cash per day in the company of men condemned to actual hard labor; see *RCL*, p. 8, 67-68, A 68; *SS*, p. 84. For "shaving off the beard" implying hard labor, see n. 41 above.
64. *HS* 81.11a.
65. See p. 181.
66. Shen, *HLCI* 2.7a.
67. *HHS*, Annals 1B.12b; Memoir 12.8a-b.
68. *CS*, 30.10b, 11a, 11b; Uchida, pp. 99, 104, 105. This document is the Prefatory Synopsis of the New Statutes (of Wei), (*Wei*) *hsin-lü hsü-lüeh* (魏) 新律序略, which the bibliographical chapters of the Sui and T'ang histories attribute to a certain Liu Shao 劉邵 (or 邵 or 劭); see Yao Chen-tsung 姚振宗, *Sui shu ching-chi-chih k'ao cheng* 隋書經籍志考證, in *Erh-shih-wu shih pu-pien* 二十五史補編 IV, p. 5336.
69. For the technical meaning of *tsei* 賊, "with murderous intent," see *RHL* I, pp. 253ff.
70. Shen, *HLCI* 1.4b and 2.15b, followed by Uchida, p. 136.

71. *TLSI*, ch. 28, *pu wang* 捕亡, "arresting fugitives"; vol. 4, p. 59.

72. It should be remembered that under the Han, unlike later periods, there did not exist an essential difference between *tu*, statutes, and *ling*, ordinances, because these two terms did not yet refer to penal law on the one hand and to administrative rules on the other. It has been suggested that ancient rules were called statutes, whereas new regulations were known as ordinances; see *RHL* I, pp. 31ff.

73. *HS* 5.3a-b; *HFHD* I, pp. 311-312; not in *SC* 11.

74. Shen-t'u Yu 申屠央, noble of Ch'ing-an 清安. *HS* 16.19a, 42.8a; *SC* 19.34; *Mh* III, p. 153, no. 6; *SC* 96.16; Watson, *Records* I, p. 267.

75. In his commentary to the Kung-yang exegesis of the Spring and Autumn Annals, Hsüan 1, *Ch'un-ch'iu Kung-yang chuan chu su* 春秋公羊傳注疏 in *Classics* 15.3a (0447).

76. See Chavannes, *Stein*, p. 109, no. 494, T.xv.a.ii.39, reproduced with one correction in Lao Kan, p. 229. See also *RHL* I, p. 257, b.

77. For this particular use of *wei* 為, see *RCL*, p. 124, D 13, n. 5.

78. *Chu wei jen ch'ing ch'iu yu li yi wang fa erh shih chi hsing wei t'ing hsing che chieh wei ssu-k'ou* 諸為人請求於吏以枉法而事已行為聽行者皆為司寇; *HS* 18.13a. Being a robber guard meant two years' hard labor.

79. Wei Ch'ih 衛後, noble of Lo-ch'eng (*SC* p'ing) 樂成 (*SC* 平). *HS* 16.64a; *SC* 19.13; *Mh* III, p. 152, no. 29.

80. Hua Tang 華當, noble of Ch'ao-yang 朝陽. *HS* 16.36b; *SC* 18.69; *Mh* III, p. 141, no. 110.

81. Liu Shou 劉受, noble of Shen-yu 沈猷. *HS* 15A.7b, 19B.18b; *SC* 19.36; *Mh* III, p. 157, no. 25.

82. For this post see Bielenstein, *Bureaucracy*, p. 25.

83. *HS* 8.8a; *HFHD* II, p. 218; *HS* 18.13a; *SC* 20.43 (added in the first century B.C. by Ch'u Shao-sun 褚少孫).
84. For Liu Yen-shou see *HS* 8.7a, 8a; *HFHD* II, pp. 216, 218; *HS* 14.15b, 18.13a, 36.3b-4a; *SC* 20.43 (*SC* 50.5 is wrong, and as a result also Watson, *Records* I, p. 397). For Liu Hsü see *HS* 63.15b; Arvid Jongchell, *Huo Kuang och hans tid* (Göteborg: Elander, 1930), p. 88.
85. Often wrongly transcribed as Han-ku.
86. For *pu ching* 不敬, disrespect, *nefas*, see *RHL* I, pp. 182ff.
87. *HS* 17.26b, 60.14a; *RHL* I, p. 190, no. 1b. After emperor Ch'eng's death, Tu Yeh rose again to the post of Grand Ceremonialist between 3 and 1 B.C.; see *HS* 19B.50a.
88. See B. J. Mansvelt Beck, *The Treatises of Later Han* (Dordrecht: ICG, 1986), pp. 51ff.
89. Chou I 周意, Noble of Chien-p'ing 建平. *HS* 16.15b, 42.2a; *SC* 18.28; *Mh* III, p. 128, no. 10; not in *SC* 92.
90. *HS* 53.5b (not in *SC* 59). The unspeakably perverted and cruel heir-apparent Liu Chien 劉建 remained untouched, but when in 121 B.C. he was accused of rebellion all the disgusting details came out and found their way into his *Han shu* biography, which must have been copied from the documents in the case. He committed suicide. See also Wilbur, *Slavery*, p. 316, no. 38.
91. Kuan Hsien 灌賢, noble of Lin-ju 臨汝. *HS* 16.15a, 41.15b; *SC* 18.28; *Mh* III, p. 145, no. 142; *SC* 95.34 (not in Watson, *Records*). Cf. Shen, *HLCI* 2.15a.
92. *CS* 30.11b; Uchida, pp. 105; 109, n. 34.
93. Shen, *HLCI* 2.15b.
94. *CS* 30.17b; Uchida, p. 138.
95. *TLSI*, ch. 4, *ming lu*, vol. 2, p. 8.
96. Uchida, p. 109, n. 34.
97. *RCL*, p. 126, D 20; *SS*, p. 100.

98. I.e., the ordinance of 156 B.C., summarized on p. 175 above; see the full text in *HS* 5.3a-b; *HFHD* I, pp. 311ff.

99. Liu Li 劉禮, noble of P'ing-ch'eng (SC mistakenly Ch'eng-p'ing) 平城 (SC 成平). *HS* 15A.24b; *SC* 21.19; *Mh* III, p. 182, no. 123. As rightly noted by the commentator Yen Shih-ku (581-645), as a member of the imperial clan he did not have his hair cut off, nor did he have to wear an iron neck-ring and shackles.

100. Liu Ch'i 劉威, noble of Ko-k'uei 葛魁. *HS* 15A.14a; *SC* 21.9; *Mh* III, p. 177, no. 52.

101. Liu Hsien 劉顯, noble of Chieh (or Chi)-yang 藉(籍)陽 *HS* 15B.20b.

102. Liu Te-t'ien 劉德天, noble of Ch'eng-hsiang 承鄉. *HS* 15B.19b.

103. *CS* 30.10b ff.; Uchida, pp. 98ff.

104. See p. 175 above.

105. Examples of both types of usage are to be found in many passages in the *Shih chi*, the *Han shu*, and the *Hou Han shu*.

106. Ch'en Ho 陳何, noble of Ch'u-ni 曲逆. *HS* 16.9b, 40.19b; *SC* 18.18; *Mh* III, p. 133, no. 44; *SC* 56.23; Watson, *Records* I, p. 167.

107. Su I-wu 蘇夷吾, noble of P'u 蒲. *HS* 17.25b; Wilbur, *Slavery*, pp. 134ff., 219ff., 419, no. 102.

108. E.g., in the story of the brother of emperor Wen's empress *neé* Tou 竇; the boy was kidnapped and sold more than ten times. See *HS* 97A.7b; *SC* 49.11; Watson, *Records* I, p. 184; Wilbur, *Slavery*, pp. 275ff., and Wang Ch'ung's *Lun heng*; see Huang Hui 黃暉, *Lun-heng chiao shih* 論衡校釋 (Shanghai: Commercial Press, 1935), p. 86, translated in Alfred Forke, *Lun-heng*, vol. 1 (Berlin: supplementary volume of *Mitteilungen des Seminars für orientalische Sprachen* 14 [1907]; reprint, New York: Paragon, 1962), p. 179.

109. See the statute of the Later T'o-pa Wei dated ca. 500, quoted in *T'ung-tien* 通典 (Che-chiang shu-chü, 1896), 167.5a: "Those who

kidnap people and sell them 'in harmony' to become slaves are made to die." See also *TLST*, ch. 20, *tsei tao lu*, vol. 3, p. 71.

110. *HHS*, Annals 1B.4b and 10b.

111. *HHS*, Annals 1B.11a. For this and the foregoing edicts see also Wilbur, *Slavery*, pp. 466ff.

112. *CS* 30.10b; Uchida, p. 99.

113. *HS* 76.3a, the biography of Chao Kuang-han 趙廣漢; the story is set during his governorship of the Capital Area, i.e., between 71 and 65 B.C.; see *HS* 19B.31a; *San-kuo chih*, *Wei chih* 9.1b (T'ung-wen ed.); the date is ca. A.D. 195 as shown by *Wei chih* 1.10a.

114. Approx. 48 B.C., in *Pei-t'ang shu-ch'ao* 北堂書鈔 39 (inaccessible); in A.D. 33, in *HHS*, Annals 10A.6a; in 134, in *HHS*, Annals 6.8b; in ca. 184, in *HHS*, Memoir 40.8a and 62.1b, commentary; in 189, in *HHS*, Annals 8.16b; in 195, in *HHS*, Memoir 62.13a-b.

115. *Shan ch'iang chih* 擅強質; see *RCL*, p. 162, D 126; *SS*, p. 214.

116. See Niida Noboru 仁井田陞, "Kan Gi Rikuchō no shitsu seido" (The system of pawning during the Han, Wei and Six Dynasties) 漢魏六朝の質制度, in *Tōyō gakuō* 東洋學報 21.1 (1933), pp. 91-103, esp. p. 94; included in Niida's collected studies, *Chūgoku hōseishi kenkyū* 中國法制史の研究, in the volume *tochihō, torihikihō* 土地法, 取引法 (Studies in the history of Chinese law, vol. on land law and the laws of trade) (Tokyo: Tōyōbunka kenkyūjo, 1960), p. 477-489. esp. p. 480.

117. For the strict bookkeeping involving all entries and issues of grain, see Michael Loewe, *Records of Han Administration* (Cambridge: Cambridge University Press, 1967), vol. II, pp. 64ff.

118. *RCL*, pp. 34-39, A 19-22; *SS*, pp. 35-40.

119. *Wei ch'u* 偽出, "fraudulently writing off."

120. *RCL*, p. 81, A 87; *SS*, p. 100.

121. *Chu shou erh tao chih shih chin ch'i shih* 主守而盜直十金棄市. This law is quoted in Ju Shun's commentary to *HS* 66.16a.

122. *RHL* I, p. 178-179.

123. *HS* 83.2b.

124. Perhaps it belonged to the "Essential Ordinances for the Northern Border," for which see *RHL* I, p. 47, no. 27.

125. *Pien chün tao ku wu-shih-hu chih yü ssu* 邊郡盜穀五十斛
至於死, *HHS*, Annals 1B.14a.

126. See pp. 29-30 of my "A Lawsuit of A.D. 28" (see n. 39).

127. *HS* 8.5b; *HFHD* II, p. 210; *HS* 18.13b, 19B.30a, 90.14b ff.

128. *HS* 18.21a, 19B.41a, 81.10a ff.

129. These cases are mentioned in *HS* 79.7a, 83.2b, 84.10a, 98.11a.

130. *HHS*, Annals 1B.12b, Memoir 69A.8a ff.

131. Jen Shang 任尚, *HHS* Annals 5.13b, Memoir 6.14a, 77.17a ff.

132. Tso Ch'ang 左昌, *HHS* Memoir 48.10b ff.

133. *HHS* Memoir 60.8b ff.

134. *Kuan pu* 官布; this term is also found in *SC* 30.33, *Mh* III, p. 586; it is misunderstood in Watson, *Records* II, p. 98, and in *HS* 24B.16b, Swann, *Food and Money in Ancient China*, p. 297.

135. *San-kuo chih*, *Wei chih* 12.16b (T'ung-wen ed.).

136. Shen, *HLCI* 2.17b ff.

137. *HS* 90.12b; *SC* 129.38, Watson, *Records* II, p. 446; *HS* 90.19b, 98.1b; *HHS* Memoir 36.11b.

138. *TLSI*, vol. 4, p. 69.

139. Shen, *HLCI*, ch. 17.

140. *RCL*, pp. 198ff., E 20ff.; *SS*, pp. 264ff.

141. Published in the archaeological report on the Yün-meng tombs, compiled by the Hupei Provincial Museum, *Yün-meng Shui-hu-ti Ch'in mu*

雲夢睡虎地秦墓 (Peking: Wen-wu ch'u-pan-she, 1981); the "guide" is found on plates cxxxv-cxxxvi, strips 827 reverse-814 reverse.

142. *Lun-heng*, vol. 3, p. 1985; Forke, vol. 2, pp. 394ff. (cf. n. 108).

143. *Yün-meng shui-hu-ti Ch'in mu*, plate cxxxv, strip 827, reverse. K'ung is a normal surname, being, among others things, the family name of Confucius.

144. This is shown by the "'Chronicle," one of the other documents found in the coffin together with the other documents; see *RCL*, p. 1; and my "The Legalists and the Laws of Ch'in," in W. L. Idema, ed., *Leyden Studies in Sinology* (Leiden: Brill, 1981), pp. 9-10.

145. Kudō Moto'o 江藤元男, "Suikochi Shin bo chikkan 'nissho ni tsuite" 睡虎地秦墓竹簡「日書」について, in *Shiteki* 史滴 7 (Tokyo: Waseda University, 1986), pp. 36ff.