

# THE GREAT QING CODE

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*with the assistance of*  
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## PREFACE

When I began to study Qing law in the 1970s, the emphasis among American students of the subject seemed to be on cases. There is a natural tendency for American lawyers to think primarily about cases and the then recent book by Professors Derk Bodde and Clarence Morris, *Law in Imperial China*<sup>1</sup> made it easy to do so since it included a selection of translated cases. As I started looking into the field, however, it seemed to me that a case could be made for studying the Code itself. I felt that it was an enormously important legal document. I wrote a short piece detailing my reasons.<sup>2</sup> The problem was how to discuss the Code with anyone who did not read Chinese. The only English translation — that by Sir George Staunton<sup>3</sup> — was essentially useless since it was so free as to be inaccurate. The French translation by Father Boulais<sup>4</sup> was almost as bad though for different reasons: it omitted large portions of the text without indicating that it had done so. The French translation of the Annamite Code by Lieutenant Philastre<sup>5</sup> is first-class, but that Code did not include the entire Chinese text and Lieutenant Philastre tended to translate by using French legal terms so that, for example, the district magistrate became, in effect, a *juge d'instruction* who was instructing himself on the case. In any event many who might be interested do not read French. Consequently I decided to attempt a translation. It is a project that I have had to lay aside on many occasions so that it has taken an inordinately long time to complete, but it is now finished.

There is no claim that this is a faultless translation. It probably contains some errors, although we have striven to avoid them. We have unquestionably made certain choices in English renderings which others might properly question. Given the lack of an annotated Chinese text with indications of doubtful passages and explanations of obscure terms, this is inevitable. It is certainly an ungraceful translation, but in this it reflects the original. Statutes of this type are not easy to read in any language.

<sup>1</sup> D. Bodde C. and Morris, *Law in Imperial China* (Cambridge, Mass. 1967).

<sup>2</sup> W. C. Jones, 'Studying Ch'ing Law: The Ta Ch'ing Lu Li', *American Journal of Comparative Law*, 22: 330 (1974).

<sup>3</sup> G. T. Staunton, *Ta Tsing Leu Lee* (London, 1810; Taiwan repr., 1966).

<sup>4</sup> G. Boulais, *Manuel du Code Chinois* (Shanghai, 1924; Taiwan repr., 1966).

<sup>5</sup> P.-L.-F. Philastre, *Le Code Annamite*, 2nd edn., 2 vols. (Paris, 1909; Taiwan repr., 1967).

My aim has been to follow the Chinese text as closely as possible. Of course it is impossible to translate word for word between two such different languages as modern English and the kind of classical Chinese that was used in writing the Code. The technique which has been used here is to try to translate almost every Chinese word and to indicate where supplementary material has been added. It has not been possible to be completely consistent in following this guideline, but I believe we have come pretty close.

We have tried not to use terms that are too charged with a precise legal meaning for English-speaking lawyers. Thus we translate 'fornication with force' rather than 'rape'. We have also aimed to avoid words which, though nominally English, are not often used. Thus 'illegally obtained property' (Art. 345) rather than 'pecuniary malversation'. The translations of Chinese relationships are very awkward but it is believed that they are accurate. The difficulty arises from the differentiation made by Chinese between relationships through males and females. Hence we translate father's brother's son rather than first cousin. Professor Cheng is responsible for these translations.

With all its faults, I hope this translation will prove useful to those who wish to understand one of the essential elements of the Chinese legal tradition.

I did the first drafts myself and then went over the text with Professor Xi Wang of Wuhan University, and parts of it with Dr Joseph Cheng of Rutgers University. I am grateful to both of them for their help. After many revisions, Professor Tianquan Cheng of Fudan University and I went over it together twice. The two of us then went over it with Mr Yonglin Jiang of Yantai University and the University of Minnesota. It would have been quite impossible to finish the translation without their dedicated work.

I received financial assistance in the form of a grant from the Dana Fund for International and Comparative Legal Studies, and a summer research grant from the Washington University School of Law. I would like to express my appreciation to both institutions, and also to Professor Tsingchia Huang of Taiwan who generously sent me a copy of his edition of the *Du Li Cun Yi*<sup>6</sup> (the text being translated) as soon as it was published. The initial drafts were typed by Ilse Arndt, Barbara Aumer, and Bruce Ching to all of whom I owe a great deal. All of the many drafts of the last four

<sup>6</sup> Y-S. Xue, *Du Li Cun Yi*, ed. T-C. Huang, 5 vols. (Taipei, 1970).

years were done by Beverly Jarboe who has been very patient and skilful in dealing with many troublesome demands.

The book is dedicated to my wife with great affection and gratitude.

WILLIAM C. JONES

St. Louis,  
October 1990

① Part = 部律?

② 刑例 = name + rules (OK?)

→ ③ 卷首 (of 讀例存疑)

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INTRODUCTION

Approaches to the Qing Code

The Qing Code—the code of the last dynasty of the Chinese Empire, the Qing (1644–1911)—has been translated in order to make available to those who do not have access to the original a central—perhaps *the* central—element of one of the major legal systems of the world. That is, the formal legal system of the Chinese Empire. Since the legal system was an integral part of the governing apparatus of the Empire, when the Empire collapsed in the early part of this century, the legal system disappeared along with everything else. Prior to that, there is clear continuity from the Tang dynasty (AD 618–906) to the end of the Qing (1911), and there is every reason to suppose that the tradition stretches back many centuries—possibly many millennia—before the Tang.<sup>1</sup> During most of the period for which there is a clear documented tradition (653–1911) the Chinese legal system governed a territory and a population that was as large or larger than that governed by Roman law, either when it was the law of the Roman Empire, or when it became the dominant law of medieval and modern Europe. In addition to governing China itself, China's legal system formed the basis of the legal systems of those nations which were subject to its influence: Korea, Japan, and Vietnam. It was only when Roman law spread out beyond Europe and the Mediterranean that it began to exceed Chinese law in importance.

The significance of Chinese law for anyone interested in comparative law ought to be obvious. What is perhaps not quite so obvious is that anyone who is interested in the nature of law or legal institutions must take it into account. Statements about law made by legal philosophers in Roman times and thereafter are essentially statements made by persons whose minds were formed by the study of Roman law. This is especially true at the present time when Roman law serves as the basis of the formal legal systems of most of the nations of the world. Thus modern Chinese and Japanese jurists look at legal phenomena with minds trained in the categories and methods of Roman law. Most treatises on comparative law

<sup>1</sup> Professor Creel pushed the tradition back to Shang (1766–1122 BC). See H. G. Creel, 'Legal institutions and procedures during the Chou Dynasty', in J. A. Cohen, R. R. Edwards, and F-M. C. Chen (eds.), *Essays on China's Legal Tradition* (Princeton, NJ, 1980) 26, 28–9.

contain brief treatments of major non-European legal systems such as those of China and Islam, but the treatment is only nominal and no one pays much attention to it.<sup>2</sup> The same thing is true for the studies by legal anthropologists of 'primitive' tribes and peoples. They are often greeted with respect, but they have not really affected our ideas about law. Real law is European law.

We are less and less able to ignore China however because of its enormous importance in the international community. Hence it may be that the study of Chinese law will be the way in which modern legal scholars can begin to escape the strait-jacket of Europe-centred thinking. At any rate, it will certainly be one of the principal systems they will have to consider. There are two reasons for this. One is that the Chinese legal system is heavily documented, especially for the modern period (1644–1911). Consequently, it can be studied fairly easily. The second is that, like most Chinese institutions, it seems to have developed completely independently from the West and to have received no influence from Western law. By looking at Chinese law, one can see how a very large, complex, 'advanced' but totally different society dealt with what we call legal problems.

The difficulty is finding out how to study this law. The materials available for the study of Chinese law are vast. In addition to the Code, there were many other collections of statutes and regulations still extant. There are also thousands of printed decisions in cases that arose under the Code and were decided at the higher levels of government,<sup>3</sup> in addition to even more manuscript records both of central and local offices.<sup>4</sup> There are also studies of customary law.<sup>5</sup> Finding a way through the material seems to be a

<sup>2</sup> In one standard text used in American law schools there is no treatment of non-European law. See A. T. von Mehren and J. R. and Gormley, *The Civil Law System*, 2nd edn. (Boston, Mass., 1977). In another, M. A. Glendon, M. W. Gordon, and C. Osakwe, *Comparative Legal Traditions* (St. Paul, Minn., 1985), the only references to China are to its place among the countries with socialist legal systems. Most of the treatment of such systems refers to the Soviet Union. There are brief references to non-European systems in a 42-page note that covers European systems as well (in a book of 895 pages) in R. Schlesinger, H. Baade, M. Damaska, and P. F. Herzog, *Comparative Law*, 5th edn. (Mineola, NY., 1988), 303.

<sup>3</sup> See D. Bodde and C. Morris, *Law in Imperial China* (Cambridge, Mass., 1967), 144–59.

<sup>4</sup> At present a great deal of work is being done on manuscript collections of district magistrate records both in Taiwan and in the People's Republic of China. Several projects were reported on at a conference, 'Civil Law in Chinese History' held at the Center for Chinese Studies, University of California, Los Angeles, 11–13 Aug. 1991. See, e.g. M. A. Allee, 'Code Culture, and Custom: Foundations of Civil Case Verdict in a Nineteenth-Century Country Court' [Taiwan]; P. C. C. Huang, 'Lawsuits, Disputes and Conflicts in North China During the Qing and the Republic'; and M. Macauley, 'Civil and Uncivil Dispute in Late Imperial Fujian, 1723–1820' (unpublished papers).

<sup>5</sup> Perhaps the best-known collection was published by the Ministry of Justice of the Nanjing government in 1930. A partial translation in German is contained in E. J. M. Kroker, *Die amtliche Sammlung Chinesischer Rechtsgewohnheiten*, 3 vols. (Frankfurt am Main, 1965).

daunting task. Normally one would go to the treatises that were prepared to explain that system to those who used it, particularly to students who were learning it. This is impossible to do in China however for there are no systematic treatises as we understand the term. The Chinese had commentaries and what are sometimes called treatises, but they do not help one much to understand their system. As a nineteenth-century French student of the system observed:

none of the these collections [treatises], to my knowledge at least, contains an analysis of the whole of Chinese law or has tried to deduce from it any theory whatsoever. Each commentator picks over the law, phrase by phrase, and tries to bring out some comparison, to find some unforeseen circumstance, and most of all, to justify the provision of the law. Alongside certain remarks which show a great exactitude in criticism, there are often platitudes and wretched inanities.<sup>6</sup>

One possible solution to the problem is to regard the Code itself as a treatise of sorts. It has a structure that is obviously the product of a great deal of thought. It is tightly arranged. The rules themselves show much refinement. There are many cross-references for example. Hence it comes close to constituting a scientific analysis of the various legal phenomena of China. To be sure, it is in part a collection of rules that deal with particular fact situations, sometimes in great detail. Nevertheless, it is not just a compendium of rules. The rules themselves have been refined and harmonized to a considerable degree. General principles have been factored out. It is, in other words, a true code, and as such can be taken to represent the considered view of some of China's leading jurists as to the ways to think about law, to think about what law is. It was to show the way to analyse legal problems and to provide methods for applying legal rules to them.

Although that seems to have been the function of the Code, at least by the end of the dynasty, it was not the direct or immediate basis of decision for most cases (although it has some fairly detailed rules). Rather, the cited authority would more than likely be a *li*, a word usually translated as 'sub-statute', though 'codified precedent' might be better. These were detailed rules that were normally based on decisions or interpretations and were printed following the article of the Code to which they referred. If there was an applicable sub-statute, it would be applied instead of the statute.<sup>7</sup> There were, in addition, as indicated above, a number of statutes and regulations outside the Code. But in this the situation is not so different

<sup>6</sup> P.-L.-F. Philastre, *Le Code Annamite*, i. 2nd edn. (Paris, 1909; Taiwan repr. 1967), 4.

<sup>7</sup> See Bodde and Morris, *Law in Imperial China*, 66–8.

from that in Western law. The French Civil Code is probably the direct authority in only a small number of present-day cases (despite the technique of decision-writing of the Court of Cassation which might lead one to think it was<sup>8</sup>). Precedent plays an enormous role as do the opinions of eminent authorities and, on occasion, other statutes and regulations. Nevertheless, the Code remains at the heart of the system and serves as the basis for organizing instruction in the civil law. It seems reasonable to make a similar claim for the Qing Code in China.

### The formal legal system of Qing China

#### *The difference in approach between western law and the Code*

One of the principal difficulties in studying the Code is learning how to look at it as the Chinese did, or at least not to look at it with expectations formed by exposure to Western ideas about law. To avoid this problem, it is necessary to know something about the legal system of which the Code was a part, for the system is so different from those we are accustomed to that it is sometimes hard to realize that it is a legal system. One of the aspects that especially strikes the Western observer is that the Code is not much concerned with the disputes of private individuals, nor with the notion of 'rights'. We are accustomed to think that a legal system is primarily a social institution within which 'persons'—private individuals, or groups of such individuals, or even the state—can make claims against other 'persons' and have these resolved by a neutral trier of fact and law—the court. Normally the persons or parties will be represented by lawyers. We also tend to think that the laws applied by the courts will deal to a very considerable extent with private law—torts, contracts, property, and the like. Judicial independence, separation of powers, and some judicial review of administrative acts are also normal.

These are all aspects of the legal systems we are familiar with: To a certain extent, they reflect the point of view of our law, and it is well to remember what that is. It seems safe to say that it was formed by Roman law, and Roman law arose, after all, in a very small and predominately agricultural community with a weak government. As Professor Kunkel points out, as late as the beginning of the fourth century BC, Rome was no more than half the size of modern Luxembourg.<sup>9</sup> As a consequence, the

<sup>8</sup> Only the Code and other statutes and regulations are cited. See O. Kahn-Freund, C. Lévy, and B. Rudden, *A Source-book on French Law* (Oxford, 1973), 137 n. 11.

<sup>9</sup> W. Kunkel, *An Introduction to Roman Legal and Constitutional History*, 2nd edn., J. M. Kelly (Oxford, 1973), 3.

legal problems that it dealt with in the formative period were what one would expect: the resolution of disputes between private individuals that arose out of torts, simple contracts, and succession. In addition, there were problems of status, both because different groups of Roman society were sharply divided,—patricians, plebeians, and slaves, for instance—and because Romans distinguished themselves from the citizens of other Latin states to say nothing of those from farther away. Although Roman society soon changed radically, the focus or point of view of Roman law had been set. Thus Gaius, writing in the period of the Antonines (c. AD 161), said, 'The whole of the law observed by us relates either to persons or to things or to actions.'<sup>10</sup> Yet the Rome of that time was of enormous size and was headed by an emperor whose status, despite the republican forms that still survived, approached, if it did not surpass, that of the autocratic Chinese emperors. Gaius' analysis was continued by the draftsmen of the *Corpus Juris* of Justinian<sup>11</sup> whose power and system of government were in every way comparable to those of his Chinese counterparts. Nevertheless, law continued to be looked at from the point of view of the individual, and its basic concerns were those of individuals.

This approach has been maintained down to the present.<sup>12</sup> Modern civil codes cover the same material as the *Institutes* of Gaius, more or less, and follow his scheme of analysis. Civil law is at the heart of Western law, and the influence of the approach is pervasive. Western jurists use a model of the universe composed of discrete entities—persons who create legal obligations by the exercise of their individual wills. They also assume that these persons can get their disputes resolved, if they wish to, by professionally trained judges. These 'persons' are no longer human beings but the central abstractions or figures of the legal system. They are sometimes called 'rights-bearers', and it is an accurate description. Even the state can appear as a 'person' in a domestic law suit, and states are, in effect, the 'persons' of public international law, whose terminology and structure are based on Roman private law.

The situation in China was radically different. The polity of China

<sup>10</sup> F. de Zulueta, *The Institutes of Gaius* i. (Oxford, 1946), 5.

<sup>11</sup> Gaius' words are repeated. See J. A. C. Thomas, *The Institutes of Justinian* (London, 1975), 6.

<sup>12</sup> The French Civil Code begins with Persons (Book 1), and continues with Property (Book 2), and the ways in which property may be acquired, including succession, gifts, contracts, quasi-contracts, and delicts (Book 3). All of the matters covered in Books 2 and 3 were placed under the heading 'Things' in Gaius. The German Civil Code, after a General Part which includes Persons, opens with Obligation law (contracts, torts, and restitution), and continues with Property, Family Law, and Succession. Except for Family Law (which to a certain extent was treated under 'persons') this follows Gaius' order.

consisted of a highly centralized government headed by an absolute ruler who ruled by means of a bureaucracy. The primary obligation of every Chinese was to fulfil the duties assigned him by the Emperor. All human activities had to be carried on so as to fit into his scheme for directing society. Consequently one would expect the imperial law or Code to take note of human activity only as it was perceived to affect imperial policies. It was natural that the primary focus of attention would be the activities of bureaucrats in the performance of their duties, not the activities of ordinary human beings in their private lives. As one of the Tang emperors, Li Shimin, is supposed to have remarked, 'The wise emperor governs his officials, he does not govern the people.' In China the subject matter of Roman civil law was considered only when it affected the interests of the Emperor.

Thus marriage was rather thoroughly dealt with since marriage and the family system were basic to the polity.<sup>13</sup> An institution that was similar to the English mortgage, the *dian*, was given considerable space,<sup>14</sup> presumably because it was important to know who owned land so that the government could collect the taxes on it (the provision is included in the section on land taxes). But except for torts, which are treated together with crimes, very little attention is paid to private matters. There is almost no treatment of contracts for instance. This does not mean that the Chinese did not use contracts or even that the magistrates did not deal with them. As a matter of fact there was a great deal of what we would call private or civil law litigation.<sup>15</sup> But such matters were of no concern to the Code. Hence they were not 'legal' if we regard the Code as the official statement of what law was in China. The mere fact that the magistrate who enforced that law also decided private disputes in which we would characterize as private or civil law suits does not mean that the Chinese jurists looked on them in the same way. The magistrate engaged in many activities that did not involve the law. The Code's point of view is shown by the fact that over half its provisions are devoted to the regulation of the official activities of government officials. For example, an officer in charge is punished when the number of employees allotted to a particular office is exceeded<sup>16</sup> or when

<sup>13</sup> Arts. 101-17.      <sup>14</sup> Art. 95.

<sup>15</sup> The collection of customary law, Kroker, *Die amtliche sammlung Chinesischer Rechtsgewohnheiten*, n. 5 includes a great number of contracts. See, e.g. *ibid.* i. 244. Jamieson indicates that magistrates did hear contract cases although they had no Code provisions to follow. G. Jamieson, *Chinese Family and Commercial law* (Shanghai, 1921) 113-27. The Code apparently contemplates such actions, Art. 312. There was clearly a great deal of what we would call litigation between private parties involving what we would call civil law—notably land and succession disputes and debt collection (above n. 4).

<sup>16</sup> Art. 50.

documents are not forwarded promptly.<sup>17</sup> The pasturage director is punished when the mares in the Imperial Stud fail to produce their quota of foals.<sup>18</sup> This was 'law' in China.

Such matters are dealt with in the West by internal regulations of government offices. For example, in the United States, within the Navy Department, there are regulations that govern the transfer of goods and funds within the Department, as well as the assignment of personnel and the way instructions are transmitted. But they are not regarded as being part of the American legal system except on the rare occasions when they are relevant to some action that is being brought in the regular courts, such as a wrongful discharge.

One consequence of the difference in points of view is that the categories of Western law are meaningless within the Chinese system of formal law, that is, the Code. One cannot speak of the Code as being a body of civil or criminal law nor of its being a combination of the two. It is obvious that civil law as the law which deals with the private concerns of citizens from the point of view of those citizens did not exist in the Code. There were no citizens for one thing, only subjects. More importantly, the Code dealt with all matters from the point of view of the ruler. The question was how did a matter concern him, not how did it affect a private party. The Code has often been described as a penal code. If by that it is meant that each article imposes a penalty, the statement is correct. But does the term 'penal code' connote a body of law that deals with such matters as breach of promise of marriage and the quality of goods produced in the imperial manufactories? So also for administrative law or the public-private law distinction. The entire system of the law that is embodied in the Code can be regarded as governing internal administrative matters so that it was entirely administrative law. Since there was no other system of law that was recognized by the Chinese as 'law' however, what would such a characterization mean? In the same way, everything the Chinese recognized as law was, in a sense, public, and yet it dealt, on occasion, with private matters. When the term 'public' was used in the Code it referred to the offence of an official that arose while he was carrying out his official duties.<sup>19</sup> A 'private' offence was an act for his own benefit.<sup>20</sup> This is certainly not out distinction between public and private law.

The point is that Chinese law as embodied in the Code has to be examined

<sup>17</sup> Art. 67.

<sup>19</sup> Art. 7.

<sup>18</sup> Art. 228.

<sup>20</sup> Art. 8.

on its own terms. Categories of Western law do not work. So far as the Chinese were concerned, there seems to have been one body of law. The only categorization was the grouping of articles under the name of the board or ministry of the central government to whose work they seemed most closely connected. It makes no more sense to talk about Chinese civil or criminal law than it would to talk about American Agriculture Department law when referring to the UCC (Uniform Commercial Code), even though a number of UCC provisions are related to agriculture and some of these are also dealt with by government regulation.<sup>21</sup> But that would be a natural way for someone trained in Qing law to think about our law. He might well assume that our law, like his, was concerned with official matters. He would assume that rules would be arranged under the headings of the ministries of government. Hence he would regard the administrative categories of the United States Code—Agriculture, Defense, Commerce and Trade, etc.—as the basic categories of American law, instead of contracts, torts, commercial law, and the like. In other words, the categories which the Chinese used cannot be applied to the law of the United States. When an individual who has been trained in either system starts to investigate the other he has to discard all of the categories and concepts he is familiar with and try to understand those of the new system.

If we try to fit Chinese law into Western patterns, instead of approaching Chinese law in the way the Chinese did, to the extent we can, there is also the risk that we will concentrate on matters that we think we recognize since they are similar to our own ideas. There are many such areas in the Code, especially in criminal law and torts. Not only do the Code provisions cover much the same ground—homicide, theft, battery, rape, trespass, etc.—the substantive elements of the offences are often almost the same. Homicide, for instance, is divided into plotting a killing,<sup>22</sup> killing intentionally but without previous planning (for example, killing during an affray<sup>23</sup>), and non-intentional killing.<sup>24</sup> The asportation required for theft is similar to that required by our law.<sup>25</sup> There are many

<sup>21</sup> For example, the definition of 'goods' includes 'the young born of animals and growing crops', Sec. 2-105, as well as existing animals and harvested crops. If these agricultural goods are regarded as 'perishable agricultural commodities' and are sold for shipment interstate, and the parties are subject to the Perishable Agricultural Commodities Act (7 U.S.C. 499a-499s), then such matters as the right to reject for breach of warranty are governed by that act and its regulations, and not by the state sales law (nowadays the Uniform Commercial Code). See, e.g. *L. Gillarde Co. v. Martinelli and Co*, 168 F.2d 276, 168 F.2d 60 (C.A.1, 1948, decided before the UCC came into effect).

<sup>22</sup> Art. 282.      <sup>23</sup> Art. 290.

<sup>24</sup> Art. 292.      <sup>25</sup> Art. 280.

others.<sup>26</sup> But that is not where the Chinese began their own analysis. The Code, which seems to have been at the centre of the Chinese legal system was, in form, a directive to the district magistrate to tell him when to punish and precisely what punishment to inflict in any circumstances that were perceived by the state as legally significant. That is, as injurious to the Emperor. The primary concern of the Code, therefore, was to make it clear to the magistrate what activities he was required to punish, and precisely what penalties he was to impose.

Moreover, as mentioned above, the majority of the provisions were not only part of a code addressed to district magistrates to enforce among those who were in their jurisdiction as part of their administrative duties, they also concerned the behaviour of officials on the job. Thus while there are provisions that deal with the private concerns of individuals, such as a wife cursing her husband's relatives,<sup>27</sup> or mortgagees refusing to allow redemption,<sup>28</sup> and the like, there are far more that deal with such matters as the conduct of the great sacrifices by officials<sup>29</sup> or their failure to discover the theft of grain from government warehouses.<sup>30</sup> The feature that seems to be common to all of the activities that the Code dealt with is that they were significant to the activities of the government or Emperor.

Our law has grown outward, as it were, from the concerns of individuals or 'persons'. It fulfils large social purposes, but it does so indirectly by dealing with the affairs of individuals, largely from their points of view. It can be argued that the stability of contract relations and the enforceability of contracts are essential for a society's economic development. Indeed, such arguments are often made. Contract law is, nevertheless, primarily concerned with providing a way for persons to ensure that their decisions regarding matters that interest them will be enforced. As the interests of individuals are served, societal interests get an indirect benefit.

In China, precisely the reverse was the case. The state promulgated laws to make sure its interests were advanced. As this was done, the interests of individuals were often protected as an indirect result. This difference was indicated not only by the content of the substantive law, but by the nature of the legal proceeding. There were no parties. There might be an accuser and there was certainly an accused, but the magistrate was in immediate and total control, and he was concerned with protecting and advancing the interests of the state. Moreover, he was at the very bottom

<sup>26</sup> e.g. not only is fornication with force distinguished from fornication with consent (Art. 366), but fornication with a minor is treated as fornication with force. *Ibid.*

<sup>27</sup> Art. 330.      <sup>28</sup> Art. 95.

<sup>29</sup> Art. 157.      <sup>30</sup> Art. 131.

level of a bureaucratic pyramid. The cases he could decide on his own were very few. In any significant case, he could only propose decisions which could be (and often were) revised or reversed by superiors. Thus he was not a judge in our sense. He was the means through which the Emperor governed at the lowest level, and he exercised all of the powers of the state at that level. As one noted authority has written:

He was the judge, the tax collector, and the general administrator. He had charge of the postal service, salt administration, *pao-chia*, police, public works, granaries, social welfare, education, and religious and ceremonial functions. His over-all duty is summed up in the *Ch'ing shih kao* (Draft history of the Ch'ing dynasty):

A magistrate takes charge of the government of a district. He settles legal cases, metes out punishment, encourages agriculture, extends charity to the poor, wipes out the wicked and the unlawful, promotes livelihood, and fosters education. All such matters as recommending scholars [to the court], reading and elucidating the law and imperial edicts [to the public], caring for the aged, and offering sacrifices to the gods, are his concern.

A magistrate, although a civil official, also had to defend the city in an uprising or a foreign invasion. Failure to do so would incur dismissal and physical punishment.<sup>31</sup>

Deciding legal cases or what we call law suits was one of his two most important tasks (the other being the collection of taxes), but that is all. It was just one administrative task among many. Neither he nor the superiors who reviewed his work had anything we would recognize as formal legal training, although they might, of course, have picked up a good deal of legal knowledge on the job. They were, for the most part, career civil servants who were selected by competitive examinations based on the Chinese classics—essentially philosophy and literature. Law was emphatically not one of the subjects tested.

Obviously, in such a system the proceeding was not left up to the initiative of private parties. The adversary trial which we regard as standard did not exist. Instead, when the magistrate took jurisdiction over a case, he called in all interested parties and interrogated them. If there was significant, real, non-testimonial evidence, such as a corpse, he was supposed to go out to examine it. Finding the facts was regarded as much more difficult and important than finding the law—something that the magistrate tended anyway to leave to his clerk.<sup>32</sup> There were, at least in

<sup>31</sup> T'-t. Ch'ü, *Local Government in China under the Ch'ing* (Cambridge, Mass., 1962; repr., Stanford, Calif., 1969), 16.

<sup>32</sup> There are interesting insights into the activities and attitudes of magistrates in what might be termed a magistrate's manual of the seventeenth century, L-h. Huang, *A Complete Book Concerning Happiness and Benevolence*, trans. C. Djang, (Tucson, Ariz., 1984) 251-462.

theory, no lawyers to perform the functions of either barristers or solicitors.<sup>33</sup> The magistrate made a preliminary decision, and it was reviewed on the same basis that a decision to reduce the area's tax assessment because of natural disasters would have been. The review was simply a part of the system of bureaucratic control. Did the magistrate follow the proper procedures and guidelines? Did he report in the proper way and give adequate reasons for his decision? Was this the right decision under the circumstances? The Chinese had elaborate rules for the performance and review of all administrative tasks, not just for those we call adjudication.

The proceeding could be quite dreadful for everyone, including the complainant.<sup>34</sup> All persons concerned, including witnesses, were usually imprisoned under appalling conditions pending final conclusion of the matter. The term which when translated is the innocent word 'interrogate' often involved torture. Even the lightest punishment—beating—could be crippling or even fatal. Nevertheless, the system seems to have functioned in a way the government found fairly satisfactory for its purposes, and it was not so unbearable as to cause the populace to revolt. With minor changes, it survived for many centuries. Despite its horrors, it was a system that worked.

If we are to understand the Code, these are all matters that have to be kept in mind. It was a body of law promulgated by a bureaucracy in the name of the Emperor. The promulgators were primarily interested in regulating the affairs of their own officials. They concerned themselves with other matters only when these affected imperial designs. The Code was administered by the same civil servants who administered all of the other activities of government, from collecting taxes to supervising examinations for the civil service. There were no facilities for training jurists in a formal way, and no lawyers to represent parties (at least in theory). The system was not based on the idea of rights and their enforcement. It was entirely within the control of the magistrates. And yet it constituted a legal system that was comparable in its breadth and organization to such an advanced product of Western law as the German Civil Code, for while it

<sup>33</sup> There are individuals who performed many of the functions of lawyers, particularly what one might term the solicitor's functions. They drafted complaints and appeals for instance. They could not appear to argue for the parties, however. The government detested them, calling them pettifoggers, and tried to eliminate them. See Macauley (above, n. 4).

<sup>34</sup> See, e.g. Art. 396, Intentionally Incarcerating Law-abiding Persons and Putting Them to the Question, and Art. 407, When the Complainant's Case is Concluded and He is not Released, where aspects of the incarceration of witnesses and complainants are dealt with. See also D. Bodde, 'Prison Life in Eighteenth-Century Peking', *Journal of the American Oriental Society*, 89 (1969), 311.

did not deal with much that would be covered in one of our civil codes, it also dealt with areas that we do not.

### *The Structure of the Code*

The Code consists of seven parts. The first, called Names and General Rules, is essentially a General Part like that of a German-style code. That is, it contains general concepts, the principles and rules that are applicable throughout the rest of the Code. Each of the remaining parts is named for one of the Six Boards of the central government,<sup>35</sup> and each contains the rules that are perceived to relate to that Board. As mentioned above, in form, and indeed in function, the Code was a directive to the magistrate telling him what penalties to administer for actions that were regarded as legally significant. The rules of law, that is the articles in what might be called, following the German nomenclature, the special parts—that is, the parts named for the various Boards—contain statements of fact situations and the penalties that attach to each. The General Part contains rules for applying these provisions. In particular, it provides ways of varying given fact patterns to make them cover more situations. Thus there are rules for varying a penalty according as the offender was principal or accessory.<sup>36</sup> There are also rules permitting some classes of persons to redeem the penalties for certain classes of offences in money,<sup>37</sup> others for the effect of amnesties<sup>38</sup> and confessions,<sup>39</sup> etc. The aim seems to have been to create a sort of giant grid on which any legally relevant act, such as eating another's melons, including all the ways of varying the basic fact pattern, such as the relationship between trespasser and owner, could be located. When this was done properly, the precise punishment required would be discovered.<sup>40</sup> If no punishment could be found, the act was not legally significant. This is similar to a finding in Western law that no action lay. The action might have social significance, but it was not dealt with by the law.

The result of this approach was that the determination of the proper punishment was the fundamental task of the law. Naturally enough, then, the Code opens with a definition of the five punishments into which all legally significant human activity had to be translated—beating with the

<sup>35</sup> The Board of Personnel, the Board of Revenue, the Board of Rites, the Board of War, the Board of Punishments, and the Board of Works.

<sup>36</sup> Art. 30. <sup>37</sup> Art. 22.

<sup>38</sup> Art. 16, 17. <sup>39</sup> Art. 25.

<sup>40</sup> Art. 99 provides that the case will be dealt with on the basis of illegally obtained property (Art. 345). The value of the melons eaten would be calculated and 'for 1 tael of silver and below, [the punishment will be] 10 strokes of the light bamboo, for 2 taels, 20 strokes . . . [etc.].' For government melons, the punishment was increased two degrees.

light and heavy bamboo, penal servitude, exile, and death (strangulation and beheading).<sup>41</sup> These were ranked in order of severity and within each there were further graduations: ten to fifty strokes in gradations of ten, one or two years of penal servitude, etc. In all there were twenty grades. This enabled the Code to vary the penalty to meet differences in circumstances and thus employ greater economy in describing justiciable acts.

These descriptions are not in fact accurate even for the punishments that are mentioned in the Code. In addition to beating, there were such punishments as whipping, wearing of the cangue (a sort of portable pillory), fines, military exile, transportation, and death by slicing.<sup>42</sup> In addition, there were no doubt various kinds of mutilation and torture that occurred in fact but were not mentioned in the Code. And indeed, although imprisonment was not a legally prescribed punishment, it might well be considered to constitute a *de facto* punishment since persons were often imprisoned for long periods awaiting final decisions in their cases. Despite these factual variances, the intention is clear: to create a neat symmetrical pattern into which all human actions dealt with by the Code could be fitted.<sup>43</sup>

The remainder of the General Part contains special rules on such matters as how to increase, decrease, or alter punishments when the article so provides.<sup>44</sup> The following 'special' parts contain the actual rules of law each of which sets out one or more acts and their punishment. As indicated above, they are arranged under the headings of the Six Boards. Each large part is further subdivided. Thus the Board of Revenue Part has the following subdivisions: Household Registration of Services [corvée labour]; Fields and Houses [the land tax]; Marriage; Granaries and Treasuries; Taxes, Monetary Obligations, and Markets.

### *Analysing the Substantive Law of the Code*

Everything that has been said about the Code so far points to a view of law that emphasizes procedure. In form, that is what the Chinese law that is shown in the Code seemed to do. It told the magistrate just what factors

<sup>41</sup> Art. 1. <sup>42</sup> See Bodde and Morris, *Law in Imperial China*, 78–98.

<sup>43</sup> This may represent the Legalist approach to law-making. This school disapproved of the discretion given to the educated élite to interpret the norms of behaviour (the *li*). It sought to impose rigid rules, that would be impartially and universally applied. As Professor Bodde summarizes one of their arguments: 'Law is the basis of stable government because, being fixed and known to all, it provides an exact instrument with which to measure individual conduct. A government based on *li* cannot do this, since the *li* are unwritten, particularistic, and subject to arbitrary interpretation.' Bodde and Morris, *Law in Imperial China*, 23. However Professor Bodde believed that the detail of the codes was Confucianist in origin, *ibid.* 30–1.

<sup>44</sup> For example, Art. 36, Rules for Increasing or Decreasing the Penalty. The Name and General Principles Part includes a number of quite miscellaneous provisions such as Art. 41 where a number of terms including 'day' are defined.

to consider in order to award a punishment, and just what punishment to award. While there were substantive rules, there was no obvious analysis of their content although the manner of their application was considered in detail. There are, to be sure, interesting aspects to the Chinese procedure. The fact that it concentrated on the end of the proceeding, the punishment or remedy, and its execution, and almost ignored the beginning, what we would call the pleadings and the problem of getting the defendant to appear—the precise reverse of our own concerns—is itself worth some study. Still it is substantive law that is thought of, when an analysis or comparison of legal systems is being made. Hence Chinese law will not be of general interest unless some way to analyse its substantive aspects can be found. Even if there were no visible substantive law rules, it might well be possible to find them, for, as students of Western law know—particularly those from the Anglo-American world—substantive law may well develop out of procedural law, and indeed be hidden within it. It was possible to consider the law of the formation of contracts, for example, by discussing the requirements for pleading the writ of *assumpsit*.

As it happens, however, the Code contains a good deal of what we call substantive law that is quite visible and, to a Western eye, there seems to have been a good deal of analysis of that law hidden within the treatment of procedure. But there are dangers in finding it. The Chinese themselves did not make the distinctions that we do between substantive and adjective law, and there is the possibility that a modern Westerner who is examining the materials will see his own concepts of law, not those of the Chinese. Still one has to start somewhere, so it seems worthwhile to set out a few possibilities suggested by the material as a basis for further thought and study.

In doing so it is necessary to remember that a legal system which seems to be dominated by procedure is not the same as one in which the primary concern is the analysis of substantive law. We have evidence of this in Anglo-American law. So long as it was a system dominated by pleading, it was quite different from Continental systems even where the rules, as in the case of obligation law, especially contracts, were quite similar. And indeed the influence of this emphasis on procedure continues. One has only to consider the way law is taught in American, as opposed to Continental, law schools. It is not just a matter of the emphasis on cases or judicial opinions but on the way those cases are analysed. To understand an Anglo-American case, it is essential to understand its procedural background. Was there a directed verdict for example? This approach permeates our system. Both academic and practising jurists are always

concerning themselves with evidentiary questions in a way that is quite foreign to jurists from systems based on Roman law. Any comparison between the Anglo-American and Continental approaches to any problem—product liability, for example—must take this into account.

It seems likely that something of the same sort is true of China. The necessity for an ambitious magistrate to get every procedural step right, from the examination of the corpse to the precise form for recommending the sentence, is bound to have influenced the nature of the legal system. On the other hand, the Code does constitute a large body of organized substantive law rules and if we are to understand it both on its own terms and for the purpose of comparative study, we have to see what its system or systems are.

Although, as indicated earlier, the Chinese did not discuss law in what we would recognize as analytical treatises, they seem to have left pretty clear indications in the Code of at least three ways that they analysed the rules in the Code. Of course there may be more, and further analysis may well show that the categories set out here are based on a misapprehension of what the Chinese were doing. Nevertheless it seems fair to call them analytical systems and to use them as a basis for further study.

The first is set out in what is the closest thing we have to an overt discussion of such a system. This is the system of the Ten Great Wrongs provided in Article 2. This article was a clear statement that a division must be made in the legal treatment of offences that were exceptionally repellent, such as treason, parricide, and the like, and others which, though they might require punishment, were not so abhorrent. The note printed with the article makes this clear. It is easy to conceive of a legal system in which moral judgements of this type would constitute the principal mode of analysis. There might, for instance, be a ranking of legally significant or punishable acts according to how reprehensible they were.

As a matter of fact, some steps along this road seem to have been taken. In the article which provides that certain offences are not to be pardoned by a general amnesty, the Ten Great Wrongs are simply mentioned as a group. A number of other offences—homicide, theft, kidnapping, etc.—are also listed. As to these the note states: 'They are all *true crimes*; they are intentional' (emphasis supplied). Following this is a list of offences which are not the result of intentional acts but of mischance, or conviction by attain or implication. In such cases, the one convicted would get the benefit of the amnesty.<sup>45</sup> This seems to be a clear grading of offences

<sup>45</sup> Art. 16.

according to the degree of blame that attaches. There were some other similar uses and listings of these offences,<sup>46</sup> but this analysis does not seem to have been carried any further. That is, there was no scheme developed for dealing with all or even a major part of the provisions of the Code on this basis. In general, articles were grouped according to their subject matter: supervision of warehouses or the Imperial Stud, the conduct of armies in the field, fornication, the repair of dikes, or whatever. Within each category, there are some serious offences, and some that are minor. The more serious were punished more severely, but there was no general ordering of offences according to the degree of moral disapproval.

The evidence for a second approach is fairly clear, but there is not as clear a statement of it as there is in the case of The Ten Great Wrongs. This is to view the Code as a device for enforcing the values of Confucianism.<sup>47</sup> Of course the very existence of a code was opposed to the original doctrines of Confucianism according to which men should be induced to behave properly by precept and example. A law code would not reform the heart and would simply cause people to seek ways round it. It could only be justified as an unfortunate necessity. But once the law codes were established, the Confucianists succeeded in getting their views of proper behaviour assimilated into them in a process that has been called the Confucianization of the law.<sup>48</sup>

There seems to be no question that Confucianism did influence a large number of the Code provisions. Its influence is especially visible in the Code's recognition of the existence of a social hierarchy and the importance of family relationships, both key elements of Confucianism. Thus members of privileged groups such as the reigning imperial family as well as the imperial families of former dynasties, officials, holders of inheritable titles and the like are given special privileges in the administration of the Code. For example, in most cases they could not be tortured.<sup>49</sup> In the

<sup>46</sup> The worst of the Ten Great Wrongs were given special articles such as Rebellion and High Treason, Art. 254; Treason, Art. 255; Killing Three Persons in One Household, Art. 287; Mutilating a Living Person, Art. 288; and Using *Gu* Poison, Art. 289. It was generally not permitted to make accusations of the commission of offences against senior relatives, but it was permitted to accuse them of some of the Great Wrongs (Art. 337).

<sup>47</sup> The term 'Confucianism' has no precise meaning. It is not used by Chinese but by foreigners. It refers generally to the doctrines of Confucius who lived in the fifth and sixth century BC and to the many interpretations that were made of them in the period since then. There is a good brief discussion in W-m. Tu, 'The Confucian Tradition in Chinese History', in P. S. Ropp (ed.) *Heritage of China* (Berkeley, Calif., 1990), 112.

<sup>48</sup> The phrase is apparently Professor Ch'ü's: T-t. Ch'ü *Law and Society in Traditional China* (Paris, 1961; repr. Westport, Conn., 1980), 267-79.

<sup>49</sup> See Art. 3, The Eight [Categories of Persons Who Cases are to be Especially] Considered, and its discussion in Bodde and Morris, *Law in Imperial China*, 34-5.

case of any Chinese, an offence against senior family members was much more serious than one against strangers or juniors.<sup>50</sup> Family members could not be forced to testify against each other in most cases.<sup>51</sup> There are many other examples of this influence.<sup>52</sup> For that matter the use in the Code of the Ten Great Wrongs could be regarded as simply an example of the application of Confucianism.

On the other hand, some caution has to be exercised in assuming that because a certain rule is consistent with the teachings called Confucianist, it is necessarily derived from those teachings. For example, the Code constantly recognizes the eldest male in the direct line as having enormous power over his family members.<sup>53</sup> He could punish them severely. He controlled the family property. He arranged marriages. These rules are unquestionably completely consistent with Confucianism. On the other hand they are remarkably similar to those that applied to the Roman equivalent, the *paterfamilias*. Conceivably such an institution is simply a natural aspect of a patriarchal society regardless of the governing ideology. Similarly, as mentioned previously, a very large percentage of the provisions of the Code deal with the requirements of regulating a huge bureaucracy. It is easy to point to the harmony of those provisions with such Confucian principles as the necessity for society to be organized hierarchically. But hierarchy is the essence of bureaucracy, and how else is a large country to be administered? These rules for the most part seem to derive from the usual preoccupation of senior bureaucrats in all countries with incompetent or disobedient subordinates.

At present it seems that all one can say with certainty is that there is a great deal of congruence between the rules of the Code and the standards of behaviour advocated by Confucianists. This has been studied rather thoroughly.<sup>54</sup> The present discoveries in archaeology may well tell us a great deal more about how this developed in the Qin and Han periods and perhaps earlier.<sup>55</sup> It seems almost certain that they will give us a fuller and

<sup>50</sup> Art. 318. For example, if a younger brother struck an older brother in such a way that it was called an intentional killing he was sentenced to death by slicing. In the reverse situation, the elder brother got 100 strokes of the heavy bamboo and exile to 2000 *li*.

<sup>51</sup> Art. 32.

<sup>52</sup> One that is always mentioned is the reduction in sentence for those who confessed (Art. 25). See Bodde and Morris *Law in Imperial China*, 39, 40.

<sup>53</sup> The power of the father is discussed at some length in T-t. Ch'ü *Law and Society*, 20-41.

<sup>54</sup> Notably in Bodde and Morris, *Law in Imperial China*, and in T-t. Ch'ü, *Law and Society*.

<sup>55</sup> For an example of what is being discovered, see A. F. P. Hulsewé, *Remnants of Ch'in Law* (Leiden, 1985) which contains an extensively annotated translation of the legal materials found in one tomb. See also K. C. D. McLeod, and R. D. S. Yates, 'Forms of Ch'in Law: An

more accurate picture of actual conditions in the formative period. At the same time, the intensive study that is now being undertaken of later archival material, that of the sixteenth to the nineteenth centuries, for instance, particularly that which involves the work of magistrates,<sup>56</sup> may help to clarify the relationship between what had become the official ideology of the state, Confucianism, and the actual behaviour of officials in carrying out their duties. Whatever the outcome of these researches may be, there is no question that any understanding of the Chinese law contained in the Code will have to take Confucianism into account. Until they are much farther along, however, it does not seem to be very profitable to attempt to do much more than has already been done by such scholars as Derk Bodde.

These first two methods come from outside as it were. Code rules were, presumably, drafted or amended in accordance with an independent standard. Analysis consisted of examining situations to see if a rule was needed to implement the purposes of the system and of analysing existing rules to see how well they served that purpose. There was no effort to find out whether there was a system within the rules themselves. The final approach is different. It seems to consist of a search for basic concepts within the rules of the Code, an analysis of them, and the formulation of a structure of concepts. Then the rules are revised to cause them to be more consistent with the structure. In other words, the Chinese seem to have engaged in a type of legal analysis similar to that of Western legal scholars, notably the German Pandectists whose work led to the German Civil Code. Obviously this is all conjecture, but in view of the way the Code is put together, something of this sort must have gone on. What might be described as some preliminary results of studying the Code in a search for such analysis by the Chinese are set out below. They are not offered as being at all definitive, but simply as suggestions for consideration.

### Fault, Scienter, and Related Doctrines

Perhaps the basic theory of legal liability in the Code might be stated to be that punishment will be inflicted for violations of Code provisions when the violation is the result of the offender's fault, and the punishments will be graded in accordance with the degree of that fault. In this theory, the

Annotated Translation of the *Feng-chen shin'*, *Harvard Journal of Asian Studies*, 41 (1981), 111, which translates the documents from that tomb which are formulas for the use by magistrates in carrying out various functions such as summoning witnesses. The same documents are translated in Hulsewé, *Remnants of Ch'in Law*, 183-207.

<sup>56</sup> See, e.g. the works cited in n. 4 above.

punishment assumes the role in Chinese law that the right plays in ours. That is, in our system, any act which the law takes cognizance of will give rise to a right. In China, any act which the law took cognizance of gave rise to a punishment.

It is true that the term fault was not used in the Code, but it seems justifiable to regard it as implied by a number of other concepts that are mentioned. Perhaps the clearest indication of the importance given to fault is the stress placed on the difference between intentional and unintentional acts. When the wrongdoer acted unintentionally as opposed to intentionally, his sentence was usually reduced. The term non-intentional or accidental was defined in a way that seems quite familiar to us:

(... *Unintentional means that which the ear or eye does not extend to, or what was not contemplated. For example, when one is shooting wild animals*), or when, for some reason, one is tossing bricks or tiles, (*and unexpectedly kills another. Or again, if, when one is climbing, one's foot slips and one falls, and one cannot control oneself and involves [harms] others. Or if one is aboard a ship which has been driven by the wind, or is riding a horse which runs wildly, or is driving a chariot at a rapid speed on a descent so that one cannot stop, or, if several persons are carrying a heavy object and the strength of one is insufficient to control it so that the other persons carrying it are injured...*)<sup>57</sup>

The related notion of capacity was not very well developed, but it seems to have existed. Thus in Article 22, diminished liability was provided for those who were very old or very young, or seriously or critically disabled. Nothing was said about mental illness as such, but the same article stated that those over ninety and under seven—for whom responsibility was almost eliminated<sup>58</sup>—were regarded as being of a weak understanding and hence were not to be held liable for their acts.

Differences in the degree of fault were also brought out in the different treatment given to persons according to what might be called the nature of their participation in the planning and execution of an offence. This is most prominently the case for principals and accessories. Thus the Names and General Rules Part (the First or General Part) provides that accessories will receive a punishment one degree less than that given to principals.<sup>59</sup> A similar rule is often specifically provided in particular articles as well.<sup>60</sup>

<sup>57</sup> Art. 292.

<sup>58</sup> Those 90 or over were liable for rebellion and high treason (Art. 254), but not for other offences, even if they were capital. Children of 7 or under do not seem to have been liable for any offence, though both the very old and the very young had to make restitution for illegally obtained property.

<sup>59</sup> Art. 30.

<sup>60</sup> For example, non-manifest Theft, Art. 269; Plotting to kill Another, Art. 282.

The same concept is used in a number of other contexts, notably in the case of 'public' offences of officials where the person closest to the wrongful act, usually the clerk, receives the basic punishment and his superiors receive ever-reduced penalties according to their distance from him in the table of organization. Thus it is provided in Article 71 that if there was an error in copying a document for transmission, the chief clerk would receive 30 strokes of the light bamboo and his superior one degree less. Sometimes this could work the other way. If the basic fault was regarded as being lack of supervision, the superior might receive the heavier penalty. Thus when there was a violation of the marriage laws, it was the head of the household who was held liable, not the bride or groom, nor anyone else in the family.<sup>61</sup>

*Scienter* is another concept connected with fault that appears throughout the Code. It was handled in much the same way as mischance although it was not defined. That is, when the actor knew the circumstances—for example, when he bought stolen property knowing that it was stolen—he was liable for the penalty.<sup>62</sup> When he did not know, there was no penalty. This principle was also applied to officials' offences. Thus in the case of theft or misappropriation of government property from a granary or treasury, if the one who hired the offending employee knew of the act and failed to report it, he was liable. If not, not.<sup>63</sup>

The Code also excused persons from liability in situations that were beyond their control. If, for example, an official was late in reporting for duty because of illness or bad weather,<sup>64</sup> or a guard was overpowered by thieves who stole goods that were under his care,<sup>65</sup> there was no liability.

The Code seems quite consistent both in requiring fault and in grading it. It is possible to find the principle of fault operating even in the provisions on attainment where, in one sense, there is liability without fault. That is, when the relatives of one guilty of plotting rebellion or high treason were, as a consequence, sentenced to death or slavery,<sup>66</sup> these punishments can be regarded as having been inflicted on the wrongdoer, not his family members, even though they suffered. When his family was destroyed, this was, in effect, a more severe punishment of the principal wrongdoer than

<sup>61</sup> See, for example, Art. 112, Forcibly Taking the Wife or Daughter of an Honourable Family where the 'one in charge of the marriage' (usually the head of the household) was liable if he used force or influence to obtain the daughter of an honourable family as a wife for his son. Neither the son nor the girl was punished. See also Art. 30, where it is provided that in a joint offence committed by family members, only the most superior and eldest would be punished.

<sup>62</sup> Art. 278. <sup>63</sup> Art. 128.

<sup>64</sup> Art. 55. <sup>65</sup> Art. 131.

<sup>66</sup> Art. 254.

his own execution. This resulted from beliefs similar to those that made beheading worse than strangulation: permitting mutilation of the body which one had received from one's ancestors was unfilial; moreover, it deprived the spirit of the deceased of an intact body to inhabit.<sup>67</sup> In this case, the connection of the offender with his ancestors was cut off, and he had no progeny to succeed him and carry on rites for him or them. Thus, he was guilty of gross unfilialness because he harmed his parents and other elder relatives. Of course there was also the fear that if his relatives were not killed, they would seek to avenge him. To the extent that that was the motivation for the rule, it could be said that the probable unlawful actions of the relatives were being punished. But even if attainment is regarded as liability without fault, it was very much the exception, and was limited to a few exceptionally serious offences.

In some parts of the Code this doctrine of fault was coupled with another abstraction to form an interesting principle, though again it was not made explicit. It has to be dug out of the materials. Its basis is the 'ordinary person', a figure used in the Code in much the same way that the concept of 'person' or, sometimes, the 'reasonable man' is used in Western systems.<sup>68</sup> In many articles in the Code, the rule is structured so as to set out the legal consequences of the actions of the ordinary person. This person would be held responsible when a situation was regarded as resulting from his fault, and would be punished according to the degree of his fault.<sup>69</sup> This took care of the great majority of the activities with which the Code dealt that could be engaged in by people generally. Thus the rules for ordinary crimes such as the common law felonies as well as torts such as trespass in its various forms, and such offences as the failure to pay taxes, all envisaged an ordinary person who was at fault.

If a person was not 'ordinary', then different rules applied. Every Chinese was special or non-ordinary in regard to his relatives. Most of what one might call trespass crimes—killing, beating, cursing, for

<sup>67</sup> Bodde and Morris, *Law in Imperial China*, 92.

<sup>68</sup> This is not to say that the term 'ordinary person' has at all the same meaning as 'reasonable man'. Rather, to point out that in Chinese law as in ours the rules are structured to work uniformly and this goal is achieved by using an abstraction as the object of the rule. Thus rules are assumed to apply generally unless an exception is provided.

<sup>69</sup> Sometimes the point was made quite explicitly, as in Art. 265, An Ordinary Person who Steals Money or Supplies from a Granary or Treasury. More often, it is made indirectly by the statement that a person whose offence would normally be regarded as subject to special rules would be subject to the penalty for ordinary persons. Thus in Art. 321, a stepson who strikes the stepfather with whom he has not lived will be subject to the penalty for 'ordinary persons' instead of to the much more serious one provided elsewhere in the article for stepsons who struck stepfathers with whom they were living or had lived.

example—provided a basic penalty for the case when both the wrongdoer and the victim were 'ordinary' persons. The penalty was much more serious if the victim was a relative who was senior to or older than the wrongdoer,<sup>70</sup> and vice versa. On the other hand, theft from one's family was less serious than theft from an ordinary person.<sup>71</sup>

A small percentage of Chinese were not ordinary because of their status or position. The largest class of such persons consisted of officials, and there were subdivisions within that class based on rank and position,<sup>72</sup> but there were persons superior to them, such as relatives of the imperial family and persons with inheritable titles and the like. Not only were there procedural differences in the way the cases of such persons were handled,<sup>73</sup> there were special rules that applied only to them.<sup>74</sup> There were also persons of inferior status such as slaves and prostitutes, and this status often had legal consequences.<sup>75</sup>

#### Techniques of developing abstract concepts: Hypothetical questions and comparisons

The Chinese did not, for the most part, seem to develop categories of law that would produce separate bodies of law like our property, contracts, torts (or obligation law for both of them), succession, etc. This was the case despite the fact that the organization of the rules of the Code seems designed for just such a development. There was a categorization of a system of the bodies of law contained in each of the six parts of the Code that were given the names of the Six Boards. Since a great effort was obviously made to group together rules that related to similar subject matter, not merely under the six main divisions of the Code but also in their subdivisions, it would seem that there might well have been such categories as a Revenue Board law or at least a corvée-labour tax law, a land-tax law, a marriage law (the headings of the divisions of the Board

<sup>70</sup> Art. 318. <sup>71</sup> Art. 272.

<sup>72</sup> See, for example, Art. 309, where it is stated (in an article that deals with officials of lower rank striking those of higher): 'If the ranks of the officials are quite different, then the penalty is heavier. If the titles and ranks are closer, then the penalty is lighter. This is distinguishing between the superiority or the inferiority of the individual.'

<sup>73</sup> Art. 3 provides that the cases of those in the privileged groups are to be specially considered. Art. 4 describes in more detail the procedure to be followed for such people.

<sup>74</sup> See, for example, Art. 402, When Meritorious Officials are Incarcerated, their Relations may Visit Them.

<sup>75</sup> For example, officials and those with inheritable titles could not marry musicians (who were counted as prostitutes) (Art. 113).

of Revenue Part), etc. In these parts some effort would have been made to factor out basic principles. These do not exist, however, except to a certain extent in the Board of Punishments Part.

In that Part there is certainly no general theory of criminal law beyond the notion of fault mentioned previously, but a number of categories of what we would call crimes were developed. Thus there were such categories as homicide, battery, theft, fornication, and fraud. These categories had been analysed and the results were in many ways similar to ours. Thus in the case of homicide, distinctions are made among the cases of plotting to kill,<sup>76</sup> killing intentionally,<sup>77</sup> killing by mistake,<sup>78</sup> and killing by mischance,<sup>79</sup> as well as a number of other variations.<sup>80</sup> There are rough definitions of 'plotting',<sup>81</sup> 'intentional',<sup>82</sup> 'mischance or accident',<sup>83</sup> and 'mistake',<sup>84</sup> all of which are distinctions that are recognizable to us.

One interesting aspect of the articles in these sections is that they show rather plainly one of the methods the Chinese used in developing legal doctrine. This was to ask hypothetical questions about possible variations to the basic fact pattern of the rules within the article itself. The way this worked can be seen by looking at one of the basic theft provisions:

#### Article 269. *Non-Manifest Theft.*

1. In every case of non-manifest theft, when the act is complete, but no property is obtained, the penalty is 50 strokes of the light bamboo. There will be no tattooing. If property is obtained (*do not consider whether [the thieves] divided the property that was illegally obtained or did not divide it*) sentence on the basis of one owner who is the most important and sentence each participant for the aggregate of the property illegally obtained. As for accessories, each (*refer to the above provisions on whether he did or did not obtain property*) will have his sentence reduced one degree [i.e. receive a penalty one degree less than that of the principal]. (*To 'take one owner as the most important' means, if property is stolen and obtained from two households, adjudge the penalty for the household whose property was greater in value. To sentence according to 'the aggregate of the goods illegally obtained' means, if ten men jointly steal and obtain the property from one household,*

<sup>76</sup> Art. 282. <sup>77</sup> Art. 290.

<sup>78</sup> Art. 292. <sup>79</sup> Ibid.

<sup>80</sup> Apart from the special rules on relatives, there were such articles as Killing in Play, Art. 292; Taking Away the Clothes and Food of Another, Art. 291; Injuring a Person with a Bow and Arrow, Art. 295; Incompetent or Ignorant Doctors who Kill or Injure Others, Art. 297.

<sup>81</sup> Art. 41. <sup>82</sup> Art. 290.

<sup>83</sup> Art. 292. <sup>84</sup> Ibid.

*and the amount is valued at 40 taels, then although each receives 4 taels, it is calculated together [in arriving at the sentence]. Each of the ten men receives the penalty for [the theft of] 40 taels. The one who plans [the theft] is the principal. He receives 100 strokes of the heavy bamboo. The others are accessories. Each is reduced one degree. Their punishment is limited to 90 strokes of the heavy bamboo. The other provisions may be applied similarly, mutatis mutandis.*) If it is the first offence, tattoo on the right forearm the words, 'stole stealthily'. The second time, tattoo [the same words] on the left forearm. For the third offence [the thief] will be strangled (*with delay*). Punish on the basis of the tattoos that have already been applied.

2. The penalty for pickpocketing is the same.

[The penalty is awarded on the basis of the amount stolen] as shown in a table following Art. 269.]

Here the article begins with a distinction between two kinds of non-manifest theft. This term is defined elsewhere, and amounts to something roughly like larceny.<sup>85</sup> The distinction is between cases where property is obtained and those where it is not (the latter being what we would probably call attempts). In other words, the draftsmen started to make up hypotheticals about the basic fact pattern of theft and ask what happens if the thief obtains no property. They followed this by asking what if there were several victims or several offenders. In the latter case, they saw two problems: how much of the stolen property would each be charged with? Could one be classed as accessory while the other was a principal? The problem of recidivism was also dealt with. There were heavier penalties for repeated offences. Generally punishment was in accordance with the amounts taken, subject to such qualifications as the status of the offender as accessory.

The use of this method of asking hypothetical questions may have arisen from the fact that the aim of the Code seems to have been to set out all those human actions that had legal consequences, and then to indicate what punishment each would receive. As pointed out above, the magistrate was supposed simply to follow the Code's directions. He was not supposed to exercise any discretion but simply to locate the facts properly on the grid. This done, the proper sentence appeared and he had only to execute it.

But there was a problem with this aim. Human activity is, after all, enormously various. Consequently, if it was desired to list every relevant human activity with all its possible variations, including the special features of the actor, such as his age and relation to the victim, the result

<sup>85</sup> Art. 280.

would have been incredibly unwieldy. Presumably in consequence, the Chinese reduced the wide range of human experience to a relatively small number of fact patterns—those included in the 360 articles of the special parts of the Code. Then they reduced this number still further. They grouped the articles that dealt with related fact patterns together, and, in some areas, principally those we would call criminal law, they factored out such basic general concepts as theft,<sup>86</sup> homicide,<sup>87</sup> and general assault.<sup>88</sup> As mentioned above, within a particular article, they would, in effect, ask hypothetical questions about those offences. What happens if the victim of an assault dies? Does it matter if the death occurred immediately or a long time after the infliction of the injury? These questions had the potential to develop and be articulated as general principles. At least one did and was included in the Names and General Rules Part—principal and accessory, Article 30.

For the most part this did not happen so explicitly, but it seems to have been happening implicitly at the same time another technique was being used. This was the use of comparison. Treat offence A as if it were offence B. These comparisons occur throughout the Code. Their importance to the Chinese is shown by a table published in most editions of the Code (not the one being translated, however) which, although not an official part of the Code, was much used. Its title was 'Explanation of the Eight Characters'. Two of these characters were used to introduce comparisons: 'on the basis of' and 'as if it were'. A provision in the Code itself explained the difference between them and the way in which they were to be used.<sup>89</sup> Actually, there were several other expressions such as 'in accordance with' that worked in pretty much the same way.

It is obvious that they were significant, but it is not clear just what they meant. It is conceivable that they were the means whereby a number of substantive law categories were being developed that were the equivalent of such categories in our law as contracts, torts, and property. It took many centuries, after all, for stipulation, pledge, mandate, sale, loan, etc. to be seen as different aspects of the same thing—contract—and not as separate institutions. When it is said that A is to be punished as if it were B, this is a way of saying that A and B are essentially the same, or perhaps that A is a form of B. In order to say that, it is necessary to analyse B and decide what its essential elements are. Any other fact pattern, such as A, that has the same elements, or most of them, will be treated the same

<sup>86</sup> Arts. 257–80.

<sup>88</sup> Arts. 302–23.

<sup>87</sup> Arts. 282–301.

<sup>89</sup> Art. 39.

way, or almost the same way. Obviously this amounts to substantive law analysis.

This may have been happening in China, for though some articles were compared only with one or two others, some were compared with a great number. The article that served most frequently as the basis of comparison was Article 344, Receiving Consideration and Causing Perversion of the Law. It is sometimes translated as bribery. Others were [Wrongfully] Increasing or Decreasing a Sentence (Art. 409); Non-Manifest Theft (Art. 269); The Supervisor or Guardian Himself Stealing (Art. 264); Illegally Obtained Property (Art. 345). This fact would seem to indicate a process of factoring out some common elements from apparently disparate rules.

The indications that this was happening are far from clear however. For one thing, the comparisons seem to have been made in part simply to impress upon a magistrate who was not very knowledgeable about the law the fact that a general provision was applicable in this case. Thus the most widely compared article—Receiving Consideration and Causing Perversion of the Law—obviously applied to any situation in which an official received money to permit or cause some violation of the law. It would not seem necessary to spell this out in particular cases. But in the Board of Personnel Part, for example, there are five specific references to this article: when an official receives consideration for permitting a person with an inheritable title to institute the wrong successor (Art. 47); allowing an official to hire someone in excess of his complement (Art. 50); recommending an inappropriate person for office (Art. 52); proposing someone convicted of an offence for office (Art. 53); or not deciding a case on time (Art. 69). On the other hand, there are occasions when the comparison points up an application of a rule that is not so obvious. Thus in the article on Plotting to Kill Another (Art. 282), it is provided that, whether or not the killing took place or any injury occurred in the process of such an act, if the offender obtained property, he would be sentenced for theft with force (Art. 268). One very interesting fact is that all of the most frequently compared articles involved some sort of illegally obtained property. All save one applied to the financial misdeeds of officials and government employees, and even the exception—non-manifest theft—applied to both government employees and to ordinary people. It is not clear whether this is significant or not, but there is one clue that it may be.

There is another table commonly included at the beginning of most editions of the Code. This was the table of the Six [Offences] Involving

Illegally Obtained Property. These were: Non-Manifest Theft; Receiving Consideration With and Without Causing Perversion of the Law; the Supervisor or Guardian Himself Stealing; an Ordinary Person Stealing [Government] Money and Goods; Illegally Obtained Property. The table lists the punishments across the top (10 strokes, 20 strokes, etc.) and in a column below each punishment, the amount of property that had to have been obtained for each of the six offences. Thus for 70 strokes of the heavy bamboo it was necessary to have stolen different amounts according to the offence. Under Art. 265, An Ordinary Person Who Steals Money or Supplies from a Granary or Treasury, the amount was 1 tael; under Art. 345, Illegally Obtained Property, 50 taels; under Art. 344, Receiving Consideration and Perverting the law, 1 tael; for Receiving Consideration and not Perverting the Law, 10 taels; and under Art. 269, Non-manifest Theft, also 10 taels. In the case of The Supervisor or Guardian Himself Stealing, the lowest punishment is 80 strokes of the heavy bamboo for 1 tael or less.

The effect of such a juxtaposition was to cause all these offences from bribery to larceny (to use Anglo-American terms) to be regarded as being essentially the same except as to the degree of seriousness.

This may indicate a much more radical substantive law development. Six rather different acts have, in effect, been declared to be simply different aspects of the same thing. It would not have taken much to push this further to the idea of a single 'wrongful act' which would have been punished more or less severely according as there were aggravating or mitigating circumstances.

Even if the Chinese did not go that far, were they saying that underneath the apparent factual differences among articles, there were really only a very small number of basic concepts or offences? One involved illegally obtained property. Another might have involved physical injury. Thus homicide and affray in its various forms could have been tabulated as simply different degrees of seriousness of the same thing, and perhaps the same process could have been extended to officials' offences as well. For example 'causing losses in military affairs'<sup>90</sup> or 'evading the effect of a rule'<sup>91</sup> would serve as unifying themes for a number of offences.

<sup>90</sup> This is the title of Art. 204 where the phrase is used to refer to the offence of failing to furnish supplies according to the rules and causing losses. It is often cited as an aggravating factor. Thus in Art. 201, if a failure to send a report by the fastest means results in military losses, the punishment is increased from simply failing to send. Similarly, the penalty for discarding or destroying a written imperial order is increased if it involves military orders since it was feared that losses might result (Art. 63).

<sup>91</sup> This is also an aggravating factor. See Art. 35. For an example, see Art. 63.

## Conclusion

It is obvious that we are a long way from understanding the Qing code as a legal system. Indeed the effort to do so has scarcely begun. But the Code seems clearly to occupy the central position in the Chinese legal system, not merely because it was regarded as especially important by the Chinese, but because it seems to constitute the best example we have of their legal thinking. It is clearly the product of a very sophisticated legal culture. This is especially significant because the jurists who wrote it are essentially anonymous. Even if one could discover the identity of the most important ones in a particular reign, it would not be very important. The continuity between the Qing and Tang Codes is so clear that there can be no doubt that there was an active juristic tradition at the highest levels of the imperial bureaucracy for at least a thousand years. Changes were going on constantly, but they were gradual, not revolutionary. Hence there was obviously some sort of educational system whereby attitudes towards law and drafting techniques were passed on. How this was done and what relation these had to the day-to-day work of administering the Code and the other laws are matters that will have to be investigated. How the formal legal system, the Code and the other statutes and regulations, as well as the decisions that interpreted them, related to what we would probably term the informal legal system, which of necessity includes most of the law that concerns contracts, are also important and difficult matters that need study. They will all be studied more effectively if it is realized that there is at the centre of the system a very carefully analysed and organized group of legal concepts.

If we can come to understand the system of the Code, this will of course, as indicated earlier, be of great help in making traditional Chinese law available for comparative legal study. But it should also have considerable importance for Chinese studies generally. The Chinese have traditionally had a negative attitude towards law which may be summed up in the statement attributed to Confucius: 'In hearing cases I am as good as any one else, but what is really needed is to bring about that there are no cases.'<sup>92</sup> They did not produce the kinds of treatises about it that they did for other subjects such as statecraft or poetry. Law has tended, in consequence, to be given a minor role in Chinese studies. If, however, it were to be acknowledged that the Code was one of the major products of the Chinese intellectual tradition, this would cause considerable rethinking of many presently held views of Chinese thought and civilization.

<sup>92</sup> Quoted and translated in Bodde and Morris, *Law in Imperial China*, 21.

## NOTE ON THE TRANSLATION

4 major mistakes

① → The text of the Code that is being translated is the one contained in the *Du Li Cun Yi* of Xue Yunsheng in the edition of Professor Tsing-chia Huang of Taipei. This has the advantage of being widely available in the West as well as being punctuated and having the Articles numbered. It is also newly set in readable type. It is the closest thing we have to an annotated edition of the Code since in addition to the textual notes indicating the sources of particular language it includes some cross-references. It is an enormously valuable work, but it is not—and does not purport to be—a thoroughly annotated edition of the Code with such aids as explanations of doubtful passages and definitions of terms.

② 釋義  
It is only the Code itself that is translated along with the interlinear commentary and the notes printed right after the titles to some articles. These seem to have been regarded as essentially part of the Code. The other notes published in other editions of the Code (not in the *Du Li Cun Yi*), and the sub-statutes that follow the articles of the Code, are not translated. The interlinear commentary is indicated by italics within parentheses. Square brackets ([ ]) are used to enclose explanatory material by the translators that is not contained in the Chinese text of the Code and the interlinear Commentary.

③ One of the principal difficulties in translating the Code is finding English equivalents for Chinese official terms. Where possible we have followed the usage of Professors Bodde and Morris, and Professor Hucker.<sup>1</sup> In a number of instances there did not seem to be any generally accepted equivalents and in these cases we devised terms. These are all listed in the Glossary along with the Chinese characters. In a few cases we simply left words in pinyin romanization rather than tried to find equivalents. Again these terms are in the Glossary.

④ An effort has been made to identify all of the cross-references in the Code. Since there are no numbered articles in the original Code, references were to words in the article referred to. In most cases the references are clear enough, but in some instances they are not, and we may have

<sup>1</sup> C. O. Hucker, *A Dictionary of Official Titles in Imperial China* (Stanford, Calif., 1985).

NOTE ON THE TRANSLATION

been mistaken in our attributions. In a few instances we were unable to locate any reference.

scarcely!

The pinyin system of romanization of Chinese terms is used throughout except where there is an established usage of some other system as with Professor Huang's name (Tsing-chia Huang).

1) - is Doli anyi an "annotated edition" of the code?

2) - are "律" the code itself?

3) - English equivalents or Chinese equivalents (reversed glossary)

4) - cross reference  $\Rightarrow$  annotated bibliography

Bad choices that would flow any translation.

PART I

Names and General Rules

名例

No Pinyin

('Names' means the names of the five punishments. 'General rules' means the form [rules for the application] of the five punishments.)

$\rightarrow$  origin?

寒

No

卷首



charts

8 characters (字)

16c

## CHAPTER I A

### Article 1. *The Five Punishments.*

1. The punishment of beating with the light bamboo has five [degrees]. (Chi [the Chinese word] means beating. It also makes one feel ashamed. It is beating with the light bamboo.) [The degrees are:]

- [1] 10 [strokes] (reduce to four strokes);
- [2] 20 [strokes] (excluding digits [e.g. the '3' in 13], reduce to five strokes);
- [3] 30 [strokes] (excluding digits, reduce to 10 strokes);
- [4] 40 [strokes] (excluding digits, reduce to 15 strokes);
- [5] 50 [strokes] (reduce to 20 strokes).

2. The punishment of beating with the heavy bamboo [zhang] has five [degrees]. (Zhang [the Chinese word] is a heavier [punishment] than chi. It is beating with the heavy bamboo.) [The degrees are:]

- [1] 60 [strokes] (excluding digits, reduce to 20 strokes);
- [2] 70 [strokes] (excluding digits, reduce to 25 strokes);
- [3] 80 [strokes] (excluding digits, reduce to 30 strokes);
- [4] 90 [strokes] (excluding digits, reduce to 35 strokes);
- [5] 100 [strokes] (excluding digits, reduce to 40 strokes).

3. Penal servitude has five [degrees]. (Penal servitude is [a form of] slavery. Its [purpose] is to enslave and to disgrace the one [who is sentenced to it].) [The degrees are:]

- [1] One year and 60 strokes of the heavy bamboo;
- [2] One and a half years and 70 strokes of the heavy bamboo;
- [3] Two years and 80 strokes of the heavy bamboo;
- [4] Two and a half years and 90 strokes of the heavy bamboo;
- [5] Three years and 100 strokes of the heavy bamboo.

4. The punishment of exile has three [degrees] ([Even though the offender has committed an offence punishable with death, because of the Emperor's kindness he] cannot bear to inflict the death sentence, [and the offender] is exiled to a distant territory.) [The degrees are:]

- [1] [Exile to a distance of] 2000 li and 100 strokes of the heavy bamboo;
- [2] [Exile to a distance of] 2500 li and 100 strokes of the heavy bamboo;
- [3] [Exile to a distance of] 3000 li and 100 strokes of the heavy bamboo.

5. The penalty of death has two [degrees]: (*In all cases where the law [lü] does not indicate in so many words whether there is to be execution after the final review of capital cases [jian hou], or immediate execution, then in all cases there will be immediate execution. In all cases where the sub-statute [li] does not indicate in so many words whether there is to be execution after the final review of capital cases, or immediate execution, then in all cases the decision will be delayed until after the final review of capital cases.*)

[The degrees are:]

[1] Strangulation;

[2] Beheading.

(*In all cases of offences subject to the death penalty, inside or outside the capital, apart from those [offences] which require execution without delay, the accused must be imprisoned to await the Autumn Assizes or the Court Assizes. The cases are to be distinguished according to whether [the case is one in which the] circumstances [of the offence] require the infliction [of capital punishment], [one in which] execution [should take place but may] be delayed, or one in which [the circumstances give rise to] compassion, or where there are doubts. Memorialize, requesting a decision.*)

## Article 2. The Ten Great Wrongs.

(*General Commentary. These Ten Great Wrongs are those [actions] in which the crimes are very serious and the evil is extreme. The law of the Empire does not allow them. When the penalty extends to death, it certainly will not be pardoned by an amnesty. Even when the penalty does not extend to death, there is, in all cases, a perversion of morality. Therefore the names [of the crimes] are specially set out at the beginning of the Code. This will cause men to know what they should be warned of.*

*In The Collected Explanations [Ji Jie] it is written: "The Wang Zhi says: "The trial of cases involving the five punishments must be based on the relationship between father and son, the duty between the ruler and his subjects." It also says: "The [system] of the five punishments must be used by taking into account the natural relationships [of men]." In the [actions dealt with] in this article, there is no [observance] of the duty owed to the ruler and to relatives; there is a violation of the moral order [the five human*

*relationships]; heaven and earth cannot allow it; therefore [such actions] are specifically declared to be prohibited."*)

1. The first is called Plotting Rebellion. (*This means plotting to injure the altars of earth and grain [i.e. to overthrow the dynasty].*) [See Art. 254]

2. The second is called Plotting High Treason. (*This means plotting to injure the ancestral temples and burial mounds of the dynasty and the imperial palace [i.e. to overthrow the Emperor himself].*) [See Art. 254]

3. The third is called Plotting Treason. (*This means plotting to betray one's own country and secretly going into the service of another country.*) [See Art. 255]

4. The fourth is called Gross Unfilialness. (*This means striking or plotting to kill one's paternal grandparents or parents, the paternal grandparents or parents of one's husband, or killing one's father's brothers or their wives, or one's father's sisters, or one's elder brothers or elder sisters, or one's maternal grandparents, or one's husband.*) [See Art. 284]

5. The fifth is called [Acts that are] not in Accordance with the Way [Dao]. (*This means to kill three persons in one family who are not guilty of a capital offence [see Art. 287], as well as to dismember a person. So also to mutilate a living person, as, where one dismembers a living person to obtain organs to use for medicinal purposes. [See Art. 288.], to make or keep gu poisons or to call up demons.*) [See Art. 289]

6. The sixth is called Great Lack of Respect. (*This means stealing sacred objects dedicated to the Great Sacrifice [see Art. 257], or clothing or objects used by the Emperor [see Art. 164], or to steal [perhaps Art. 260.1] or counterfeit the imperial seals; in preparing medicine for the Emperor, to make a mistake in not preparing it according to the formula [see Art. 163]; and to make a mistake in the sealing and addressing of a memorial [Art. 163]; so also, when preparing food for the Emperor, mistakenly to contravene the food regulations [Art. 163]; mistakenly to make boats or ships for the Emperor's use that are not secure.*) [See Art. 164]

7. The seventh is called Lack of Filial Piety. (*This means to bring suit against, or to curse, one's paternal grandparents, or one's parents, or one's husband's paternal grandparents, or parents [see Art. 329]; or, while one's paternal grandparents or parents are living, to establish a separate household registration and separate one's property [from that of the head of the family, see Art. 87]; so also where there are deficiencies in the support [of one's parents and paternal grandparents]. Or, while one is in mourning for one's parents, to arrange one's own marriage [see Art. 105], so also to make music and to leave off mourning garments for ordinary clothing, or, on hearing of one's paternal grandparents' or parents' death, to hide the*

matter and not to mourn, or to declare falsely that one's paternal grandparents or parents are dead. [See Art. 175]

8. The eighth is called Discord. (*This consists in plotting the killing [see Art. 284] or selling [into servitude] of relatives of the fifth degree and above [see Art. 275]; striking [see Art. 317] or bringing suit against one's husband, or superior or senior relatives of the third degree and above, or superior relatives of the fourth degree and above.*)

9. The ninth is called Failure to Fulfil One's Duty. (*This refers to the case when one of the common people kills the prefect or the department magistrate or the district magistrate under whose jurisdiction he falls, or when a soldier kills his own officers, or when a clerk or government runner kills an official of his own office of the fifth rank or above [see Art. 283]. So also the case of the killing of one's teacher while one is still receiving instruction from him; and the case [of a widow] who hears that her husband is dead and hides the matter, and does not go into mourning, makes music or leaves off mourning and puts on ordinary clothes, or remarries. [See Art. 179]*)

10. The tenth is called Internal Disorder. (*This means engaging in sexual relations with relatives of the fourth degree and above, or with the concubines of one's father or paternal grandfather, including those cases when there is consent. [See Art. 368]*)

**Article 3. The Eight [Categories of Persons Whose Cases are to be Especially] Considered.**

(*General Commentary: The Eight [Categories of Persons Whose Cases are to be Especially] Considered is a provision whereby the nation treats with special favour relatives [of the Emperor], the virtuous, the industrious, and those of long service, who must be treated outside the law, with forgiveness. Therefore, when they have committed offences, the decision will be prepared and considered outside the normal provisions of the law. Thus the [persons entitled to have their cases especially] considered will be made to be conscious of their dignity and not lightly to commit offences.*)

*The Tang Code Commentary [Tang Lü Shu-yi] says: 'The Zhou Li [the Rites of Zhou] provides: "The [rule of the] eight avoidances is in accordance with the law of the state." The eight [categories of persons whose cases are to be especially] considered is the same as the eight avoidances of*

*the Zhou [Li]. The [Zhou] Li says: 'Punishments are not applied to high officials.' When the commission of the offence is by someone who is in one of the eight [categories of persons entitled to] consideration, the seriousness of the punishment is not in accordance with the provisions of [the Law] as to punishments.'*

1. The first is called consideration [of cases involving] relatives. (*This means relatives of the Emperor of the degree of mourning called tan wen, and above, the relatives of the fifth degree or above of the grandmother and mother of the Emperor; as well as relatives of the fourth degree or above of the Empress, and relatives of the third degree and above of the wife of the heir apparent.*)

2. The second is called consideration [of cases involving] old [servants of the Emperor]. (*This refers to those who formerly and for a long time served the Emperor; who formerly had ready access [to the Emperor], and who have received special favours over a long period of time.*)

3. The third is called consideration [of the cases of those who] have great merit. (*This means those who have killed [enemy] generals or seized their standards [who have destroyed enemy troops] in a wide area, or who have led troops to surrender and obtained peace for a time; or those who [have used great efforts to] extend the boundaries of the empire, and whose great merits are recorded in the Court of Sacrificial Worship.*)

4. The fourth is called consideration [of the cases] of the virtuous. (*This means a virtuous man who has acted in accordance with a high moral standard, and whose words and deeds can be regarded as models.*)

5. The fifth is called consideration [of the cases of those] with great ability. (*This means those who have great talents so that they are able to direct troops and manage governmental affairs so as to become worthy aides of the Emperor.*)

6. The sixth is called consideration [of the cases of those] who are industrious. (*This means high military or civilian officers who are conscientious in carrying out official business, and from early to late work on official matters, or who are sent on a mission to distant areas, and who experience great difficulties and engage in great labours.*)

7. The seventh is called consideration [of the cases of] persons of high rank. (*This means the first degree of [hereditary] nobility, as well as the third rank and above of civilian and military officials on active duty, and the second rank and above of [officials] who are without assignments.*)

8. The eighth is called consideration [of cases of those who are regarded as] guests. (*This means descendants of former dynasties who have been received as guests of the nation.*)

**Article 4.** *The Commission of Offences by Those [Who are Entitled to Have their Cases Especially] Considered.*

1. In all cases where members of the eight [categories of persons who are entitled to have their cases especially] considered, commit offences, (*prepare [a memorial] setting out the circumstances of the offence*), send it sealed to the Emperor and await the rescript in reply. It is not permitted to decide to bring [the alleged offender] in for interrogation without authority. If a rescript is received directing that the interrogation be carried on, set out the offence that was committed (*the name of the offence*), and the nature of the circumstances that require consideration, in a memorial requesting [that the matter be] considered. First memorialize requesting consideration. When the consideration is concluded, (*then the bases for the offence that was considered*) are to be set forth in a report [to the Emperor]. The final decision in the case will be received from the Emperor.

2. If one of [the persons entitled to have his case especially considered] commits one of the Ten Great Wrongs [Art. 2], (*memorialize the facts of the matter to the Emperor under seal and consider and propose a provisional sentence in accordance with the law.*) This Article is not used. (*As for the Ten Great Wrongs, some assert that it is only Plotting Treason, Rebellion, or High Treason that are meant, but this is not the case. A person who commits one of the Ten Great Wrongs violates the five human relationships and offends against heaven. He despises reason and violates duty. Now [these offences are] something that must be destroyed by the law of the Empire. Therefore, they are especially provided for in order strictly to prohibit them.*)

**Article 5.** *When the Parents and Paternal Grandparents of Those Entitled to Consideration Commit Offences.*

1. In all cases where the paternal grandparents and parents, wives, or children, and sons' children of members of one of the eight [categories whose cases are entitled to be] considered, commit offences, make a report in a sealed memorial. [Until] the receipt of the imperial rescript, it is not permitted to call in the offender for interrogation without authority. If a rescript is received from the Emperor directing that the interrogation be commenced, then set out the (*name of the*) offence committed and the nature of the circumstances that require consideration in a memorial requesting [that the matter be] considered. First memorialize requesting consideration.

When the consideration is concluded, send a report [to the Emperor]. The [final] decision in the case will be received from the Emperor.

2. If the maternal grandparents, paternal uncles and their wives, paternal aunts, elder brothers or younger brothers, elder sisters or younger sisters, sons-in-law, and children of brothers of the relatives of the Emperor [see Art. 3.1] or of the imperial relations by marriage [such as princes' wives and princesses' husbands, etc.], or of meritorious officials [see Art. 3.3] (*among the eight categories of persons whose cases are especially entitled to be considered, the imperial relatives and meritorious officials are the most important*) commit offences, or if the parents of (*civil or military*) officials of the fourth or fifth degree, or their wives (*who have not yet received a title*), or sons or sons' sons who should inherit a certain dignity because of the rank of their ancestor, commit offences, they will be interrogated according to the law by an office having jurisdiction. The matter will be considered and a provisional sentence will be prepared and memorialized to the Emperor. The final decision [in the case] will be received from the Emperor. (*Just as at the beginning [of the case] one may not impeach [such persons], at the end [of the case] it is not permitted to decide the case without authorization; there is still the feeling of pity and sympathy.*)

3. In the case of the commission of one of the Ten Great Wrongs, or in the case of one who is guilty of High Treason or Rebellion by attain, or one who engages in fornication, theft, or homicide, or one who receives consideration and perverts the law [Art. 344], ([the official] *is permitted to decide the matter*). This [provision of] the law (*of memorializing the Emperor and receiving the decision from him*) is not used.

4. As for the other sorts of relatives, slaves, bailiffs, and chief tenant farmers who rely upon their connections to injure honourable people, and who perform actions in violation of the authority of officials (*when the facts are discovered, the official having jurisdiction will himself directly conduct the interrogation*). One degree is added to the punishment for the [same] offence [committed by] an ordinary person. (*If the offender does not rely on his connections but [merely] commits an offence, then the degree is not added.*) Merely condemn the one who committed the act (*it is not necessary to go against the master*). This case is not within the law of petitioning the Emperor [for permission to proceed].

5. If, at the time a yamen is conducting an interrogation, [high level persons] protect [the accused] and do not surrender [him], then the official having jurisdiction is authorized to send under seal a memorial informing the Emperor [of the matter and requesting him] to handle it. (*This refers*

*to the case where someone goes to his own yamen and makes a complaint. Someone is sent to seize the accused for trial and the imperial relative or his connections or meritorious officials do not surrender the person accused. The official charged with the matter should memorialize [requesting] the Emperor to handle the matter.)*

#### Article 6. *Officials on Duty who Commit Offences.*

1. In all cases where high or low officials in the capital or outside commit offences either of a public or private nature, the superior official having jurisdiction will send a memorial under seal, with a statement of the facts, requesting a rescript. He may not himself, without authorization, proceed with the interrogation. (*This refers to the case when the matter is serious. When it is not serious, the interrogation is not within this article.*) If it is permitted to conduct the interrogation, then proceed according to the law, and deliberate and propose a provisional sentence, and memorialize the Emperor to handle the case. [The official] must wait until permission is received. Only then is it permitted to issue judgment in the case.

2. If an official is treated improperly in a cruel and oppressive way by the superior to whom he is subject, he may prepare a statement of the evidence of (*the oppression and cruelty*) and himself memorialize it under seal directly to the Emperor. (*If one against whom an accusation has been made should subsequently file a complaint against the superior [who accused him] this is not permitted. Moreover, [the one making the complaint against the superior] will be punished.*)

#### Article 7. *Civil or Military Officials who Commit Public Offences.* (*All [offences] which are not related to the individual [']s interest] but which relate to matters of a public nature, and must be punished, are called public offences.*)

In the case of all high or low civil or military officials, stationed in the capital or outside, who commit public offences, in the case of punishments of blows with the light bamboo, for 10 blows, impose a fine of one month's salary, for a punishment of 20 to 30 strokes, add, for each degree, a fine of one month's salary respectively (*for 20 strokes, fine two months, for 30, fine four [sic]. It seems that it should be three months as it is in*

other editions of the Code)), for 40 and 50 [strokes], add a three months' fine respectively (*for 40 [strokes], fine six months, for 50, fine nine months*). For 60 strokes with the heavy bamboo, fine one year's salary, for 70, reduce [the offender] by one rank, for 80, reduce two ranks, for 90, reduce three ranks. All [such offenders] remain in service. For 100 strokes, reduce [the offender] four ranks and transfer to another post. (*If, according to the Chu Fen Ze Li [Regulations on Administrative Punishments] of the Boards of Officials or War, one who receives a punishment of reduction in rank and dismissal from the service may be retained in office, though with a [record] of his offence, then it is still, according to the sub-statute, permitted to retain him in office.*) As for offences by clerks, they will receive the strokes of the heavy or light bamboo and be permitted to remain in employment.

#### Article 8. *Civil or Military Officials Who Commit Private Offences.* (*All [offences] which are not the result of a public matter, but which are committed for oneself, are called private offences.*)

In the case of a greater or lesser official who is stationed inside or outside the capital who commits private offences, [when the offence is] punishable with 10 strokes of the light bamboo, fine him two months' salary, when it is 20 [strokes], fine three months' salary, for 30, 40, or 50 [strokes], add, respectively, three months, (i.e. *for [an offence with a punishment of] 30 strokes, fine six months [salary], for 40, fine nine months, for 50, fine one year.*) As for [offences punishable] with strokes of the heavy bamboo, for [an offence punishable with] 60 strokes, reduce one rank, for 70, reduce two ranks, for 80, reduce three ranks, for 90, reduce four ranks. In all cases, [the offender] is transferred. For 100, dismiss him from the service and have him leave his post (*the offences involving illegally obtained property are not included in this rule*). When clerks commit offences punishable with 60 strokes of the heavy bamboo or above, they will be dismissed from their employment.

CHAPTER I B

**Article 9. Committing Offences and Avoiding Banishment.**

All Bannermen who commit offences that subject them to strokes of the light or heavy bamboo will [instead] be whipped according to the number of strokes [of the heavy or light bamboo]. When the [offence] is normally punished with military exile, exile, or penal servitude, they will not be sentenced to banishment. They will, instead, wear the cangue for differing periods [according to the type of exile]. For penal servitude of 1 year, sentence to the cangue for 20 days. For every degree, add 5 days. For total penal servitude [4 years], and authorized penal servitude [5 years], add, respectively, 5 days. For exile to 2000 *li*, sentence to wearing the cangue for 50 days. For every degree, add 5 days. For military exile to a near place, sentence to 70 days of the cangue. For [military exile to] the near frontier, sentence to 75 days; for [military exile to] the far frontier, the sea-coast, and beyond the frontier, sentence to 80 days. As for the extreme frontier and malarial regions, sentence to 90 days.

**Article 10. When Military Personnel [Persons Registered as Being in the Army] Commit Offences.**

In the case of all persons registered as military personnel who commit offences, when the penalty is penal servitude or exile, for each offence, compute the number of strokes of the heavy bamboo, and sentence him to them. He will be sentenced to the [appropriate degree of] the five degrees of penal servitude according to the law. When the term of penal servitude is completed, send him back to his original garrison (*in the district or department to whose jurisdiction he is subject*). In the case of the three degrees of exile, according to whether the place [of exile] is near or distant, exile him to a garrison in the province [where the exile is to be served] (*and to the department or district to whose jurisdiction he is [then] subject*) and register him there. As for violations entailing military exile, exile him according to the law.

**Article 11. Committing Offences and Obtaining Cumulative Reductions [in the Sentence].**

In all cases when a person commits an offence for which [the punishment] must be reduced, such as reduction of [the punishment for the] accomplice (*this refers to the fact that in joint offences, the one who plans the action is considered to be the principal, and the accomplice has his punishment reduced one degree [Art. 30]*), reduction of [the punishment] for confession (*this refers to the fact that if a person who has violated the law knows that someone else is planning to accuse him, and confesses, then his punishment must be reduced by two degrees [Art. 25]*); reduction [of the punishment] according to whether the act is intentional or non-intentional, (*this refers to the case where a clerk intentionally releases a person from his punishment and the person who was released is subsequently reapprehended; in that case [the clerk's punishment] is reduced only one degree [Art. 409]. If the chief officer does not know the circumstances, he is considered to have made a wrong judgment, and if, through his wrong judgment [someone is released], his penalty is reduced five degrees beyond the one degree [reduction from the punishment of] the chief clerk [since he is not the principal, i.e. his punishment is reduced a total of six degrees]. If the prisoner is reapprehended [the official] is reduced still another degree, making seven degrees of reduction in all*); or the proportionate reduction [in the case] of public offences. (*This refers to the fact that if [officials and clerks] in the same service commit a public offence [Art. 28], as when they make a mistake and award an excessive punishment, the penalty of the chief clerk is reduced three degrees, and if the punishment of the person as to whom the error was committed has not yet been executed, the punishment is reduced still another degree. This makes, in all, four degrees. The chief officer is reduced five degrees, and the assistant official [such as an assistant magistrate] is reduced six degrees. The head official [such as the magistrate] is reduced seven degrees*). These reductions must be cumulated (*reduced and then again*) reduced. (*Reductions in punishment such as these are cumulated in fixing the penalty.*)

**Article 12. Leaving Government Service for Good Cause.**

(By 'good cause' it means to leave on the basis of a proper reason, and not for some other reason [such as escaping onerous tasks].)  
All officials who have completed their service, or are relieved of their

duties [i.e. replaced], or who change station, or who retire [owing to such reasons as old age or illness], are [considered to be] the same as those who are now serving. (*This refers to those who are not discharged because they have committed an offence; e.g. if they are let go [for reasons] such as a weeding out of sinecures or the elimination of a yamen. Although they were discharged for one of these reasons, or reduced in grade, their commission is not revoked, and they are treated the same as if they were in service.*) As for those who have acquired official titles by imperial gift [because their sons or sons' sons are officials], they will be treated as true officials (*just like their sons and sons' sons*). As for a wife who offends against her husband or whose duty to him is extinguished (*but who does not remarry, and whose own son acquires a position that bestows honorific rank on parents*), she obtains an honorary title of the same rank as that of her son. (*This means that a married woman, whose duty to the husband's household has been extinguished or who is dismissed [divorced] by her husband, receives the same rank as her son if her son obtains official rank. The reason is that the relation of [duties] between mother and son cannot be extinguished. If persons of these types) commit offences, then they will be judged according to the law of an official on active duty who commits an offence [Art. 6]. (If a rescript must be requested, it will be requested. If the investigation can be begun immediately [without requesting the rescript], begin the investigation immediately—just as the law provides for the case of officials who are in office.)*)

**Article 13. When One Who is not Yet an Official Commits an Offence.**

1. When one who is not yet an official commits an offence, and then, after he has become an official, the matter comes to light, (*if the offence*) is a public offence with a penalty of strokes of the heavy or light bamboo, or above, then, in all cases, he may commute the punishment to monetary redemption according to the Code [e.g. Art. 22. In the Qing Code, as opposed to the Tang, the reference is not, in fact, to the Code, but to a chart of redemption amounts always printed with the Code.]

2. If an inferior official commits an offence, but after he is promoted to be an official [who is entitled to special treatment], the matter comes to light, or if, while he is on active duty as an official, he commits an offence, and after he has left the service, the matter comes to light, (*under*

*circumstances such as ratings fulfilled, going into mourning for a parent, or retiring from office*), if it is a public offence with a penalty of beating with the heavy or light bamboo or below, he will be reduced in rank, demoted, and fined according to the Code [Art. 7]. For punishments above beating with the heavy bamboo of 100 strokes, adjudge the matter according to the law. If, in this case, there is dismissal from office, he may redeem in money for the punishments of beating with the light or heavy bamboo and above. If the matter consists of the hiding of tax receipts, or the loss of government property, then, although it is a public offence, the matter must be thoroughly investigated and made clear. (*That which is to be repaid must be repaid, that which is to be returned must be returned.*) But for all private offences, decide them according to the Code. As to any offence, public or private, which is committed by a chief clerk, each must be decided according to the article governing that offence.

**Article 14. The Cancellation of Official Status and Subjection to Ordinary [Menial] Obligations.**

When anyone who is serving in office (*either civil or military*) commits (*a private*) offence, and [as a result] is dismissed definitively from office, (*and it is necessary*) to cancel (*his commission*) and strike his name (*from the register of officials*), the official position (*rank and honours*) and titles of nobility will all be cancelled. (*If there is no cancellation of the commission, the case is not within this rule.*) As for Buddhist or Taoist monks who commit offences, and are sentenced to be punished (*they will be deprived of their licences and*) they will be returned to the laity. (*The officials or Buddhist or Taoist monks [in accordance with] their original household registration*), as well as military persons, civilians, and salt makers, will assume their original status and return to their original places of registration and perform the appropriate services [attendant to their registered status].

**Article 15. The Families of Those Sentenced to Exile.**

The wives and concubines of all those who commit offences which entail a sentence of exile must accompany them. Parents and paternal grandparents, children, and sons' children may, if they wish to, accompany them. The households (*wives, concubines, parents, paternal grandparents, sons,*

sons' children) of persons who are 'transported' also may accompany them. If, in the case of one who is sentenced to exile or transportation, (*the offender himself*) dies, then [the members of] his household, although they have already been transferred into the registry (*in the place of punishment*), may, if they wish to return to their village, be permitted to return. ([The household members of] *persons condemned to military exile are also permitted to do this.*) In the case of one who is exiled [by attain] in the case of Plotting Rebellion, Treason, or High Treason, or making or keeping *gu* poison, or the mutilation of a living person, or the killing of three persons out of one family, who, despite the issuance of an amnesty, is still exiled, the members of his family are not within this law of being permitted to return.

#### Article 16. *Offences not within the General Amnesty.*

In the case of all those who commit one of the Ten Great Wrongs [Art. 2], or who kill someone [Arts. 282, 290], or who steal government property [Arts. 264, 265], or who commit theft with force [Art. 266], or who commit non-manifest theft [Art. 269], or who commit arson [Art. 363], or who expose graves [Art. 276], or who obtain property illegally with or without perverting the law [Art. 344], or who commit fraud and forgery [Arts. 355-65], or who commit fornication [Arts. 366-75], or who kidnap others, or kidnap and sell the one kidnapped, or who seduce others [Art. 275], or those evil [officials] who form cabals [to disturb government affairs], and by false words cause another to be killed [Art. 58], or intentionally pronounce erroneous sentences which are inadequate or excessive for the offences [Art. 409], or, knowing the circumstances, intentionally permit [the offender] to escape, or hide the offender, or guide him to escape [Art. 393], or aid [the offender] by appealing to and bribing the superior [Art. 344?], these being true crimes (*all are intentional crimes*), although there is an amnesty [one who has committed such an offence] is not pardoned. As for offences committed by mistake and error (*by this is meant such acts as the unintentional killing or injury of another* [Art. 292], *the unintentional setting of fires* [Art. 382], *and unintentionally destroying or losing government property* [Art. 98]), or the case of those who are convicted by implication of an offence committed by another (*this means one who, when another commits an offence, is implicated and sentenced, as in the case of one who fails to discover* [that an offence has been

committed, e.g. Art. 131], or is negligent in keeping guard, or who fails to control [prisoners], as well as those implicated in wrongful acts [of subordinates] *by being involved in or listening to* [evil suggestions]) or public offences committed by officials or clerks. (*This refers to an official or clerk who commits an offence because of a matter of a public nature, as when he unintentionally [and wrongly] pronounces sentences which are inadequate or excessive for the offences* [Art. 409], or *the case where official documents are delayed* [Art. 67], or *mistakes are made in them* [Art. 64]: *all of these are unintentional offences*), he will be pardoned according to the [terms of] the amnesty. (*By this is meant: those eligible for the amnesty may all avoid punishment.*) When the (*imperial*) decree of amnesty specifies that on this occasion there are offences that are specially (*to be pardoned even where they are truly criminal acts*), they are pardoned. (*This means that if the decree of amnesty does not refer to* [offences] *that are not pardoned by a general amnesty, when [it] specifies the names of the offences that are to be pardoned, then those special* [offences] *will be pardoned in accordance with the amnesty.*) In addition, there are cases (*in which, although the one sentenced does not completely escape* [punishment],) his [sentence] is reduced to a lighter one (*this refers to such matters as reduction of death to exile, exile to penal servitude, penal servitude to beating*). Both of these cases are not within this rule. (*This means that they are not included in the rule for offences that are not included in a general amnesty.*)

#### Article 17. *Those Sentenced to Exile Who are En Route [to the Place of Exile] When the Amnesty is Announced.*

1. When one sentenced to exile is *en route* [to the place of exile] at the time the amnesty is announced (*in the case of amnesty the date of receipt of the rescript is the* [effective] *date: [the person eligible for pardon] must not yet have arrived at the place of exile in accordance with the prescribed schedule when the amnesty is announced; only in that case may he be pardoned and return home; if, although he has not yet arrived at the place of exile,*) it appears, in computing the amount of time spent *en route*, that he has exceeded the prescribed schedule, then he is not permitted to be released because of the amnesty. (*It is feared that an offender might intentionally delay. This means if there is exile to 3000 li, a day's travel is 50 li, and altogether, travel time of 60 days is allowed. If a prisoner has*

not exceeded 60 days when the amnesty is announced, then he can be pardoned, and one does not consider whether he has already gone a [considerable] distance or is still near; he is still released according to the amnesty. If, from the beginning of the journey until the arrival of the rescript [it appears after] making the computation that the limit is exceeded, then he is not within the terms of the amnesty. If he is on the road and there is a reason, then this law is not used. ('There is a reason' means if, in proceeding along the route, he gets sick or is prevented [from proceeding] by bad weather, or he is robbed, and if the office having jurisdiction issues a certificate guaranteeing the facts after investigation, in all these cases it is permitted to exclude the number of days resulting from this cause from the calculation of the time. Therefore [the text] speaks of not using this law.) If (while on the road) he [i.e. the prisoner] has run away, then, although he is within the prescribed time limit, (when an amnesty arrives) he also cannot be pardoned. If the one who has run away dies, and the household members who are accompanying him wish to return, they may. This rule is applied to those who have been transported and settled [in the place of deportation]. (Military exile is the same.)

2. One who is sentenced to be exiled, and those transported and settled [with him, i.e. his family], who have already arrived at the place of exile; those sentenced to exile by attain in cases of plotting rebellion [Art. 254], treason [Art. 255], or high treason [Art. 254]; as well as those sentenced to exile [by attain] in cases of making and keeping *gu* poison [Art. 289], mutilating a living person [Art. 288], or killing three persons within one household [Art. 287], must, upon the promulgation of the amnesty, remain sentenced to exile. [All of the above persons] are not within the terms of the amnesty.

3. If an offender sentenced to penal servitude is *en route* when an amnesty is announced, or, after he has already arrived at the place where he is being sent, an amnesty is announced, he will, in both cases, be released (in the case of exile to which penal servitude has been added, he will avoid the penal servitude).

CHAPTER I C

Article 18. Persons Convicted of Offences Who are Permitted to Remain to Care for Relatives.

In the case of those who commit offences that entail the death penalty but that are not within the class of offences to which a general amnesty does not apply [Art. 16], if their paternal grandparents (father's father's parents, and father's father's father's parents are the same) or parents are old (70 or over), or sick (critically or severely disabled) so that they must be waited on, and (whether they are old or sick) there is no adult male (16 or above) to succeed [to the task of caring for them], (then there is no difference between this case and that of the only son; the official having jurisdiction will conduct an interrogation and clarify matters, and) a memorial will be prepared containing the name of the offence (and, moreover, the reasons why [the offender] must wait on [his family]) to be sent to the Emperor. The [final] decision will be received from the Emperor. If the penalty is exile or penal servitude, (and the paternal grandparents or parents are old and sick, and there is no one to wait on and support them,) the offender will merely be given 100 strokes of the heavy bamboo, and the remaining punishment may be redeemed. He may remain at home and care for his family. (This rule will be applied to persons sentenced to military exile.)

Article 19. Astronomers Who Commit Offences.

In the case of an astronomer in the Directorate of Astronomy who is already completely versed in the work (skilled in the methods of calculation and observation of astronomical movements), and capable of taking charge of these tasks, who commits an offence which entails a penalty of military exile, exile, or penal servitude, then for each offence he commits, he will be punished with 100 strokes of the heavy bamboo; redemption will be received for the remainder of the punishment. (Moreover, order him to remain in the Directorate to exercise his profession. One who is sentenced to exile by attain in connection with plotting rebellion [Art. 254], treason [Art. 255], or high treason [Art. 254], or who is sentenced to exile [by attain] in the case of making or keeping *gu* poison [Art. 289],

or the mutilation of a living person [Art. 288], or the killing of three persons from one family [Art. 287], who must still be exiled although an amnesty is announced, or who injures another person in an affray [Art. 302], or steals [from a granary or treasury] as an official custodian [Art. 264] or as an ordinary person [Art. 265], or who commits non-manifest theft or picks pockets [Arts. 269, 280], or who engages in forcible taking [Art. 268], is to be exiled and tattooed like an ordinary person, and is not within this rule of allowing [astronomers] to remain in the exercise of their profession.)

**Article 20.** [Government] Artisans and Musicians, or Women Who Commit Offences.

In the case of a [government] artisan or musician who commits an offence, if he is sentenced to one of the five degrees of penal servitude, give him the number of strokes of the heavy bamboo to which he was sentenced, and have him remain in the jurisdiction of the (*yamen to which he is attached*) for the number of years to which he was sentenced to penal servitude. (*Stop paying his monthly food allotment. If he injures a person in an affray [Art. 302], or steals [from a granary or treasury] as an official custodian [Art. 264] or as an ordinary person [Art. 265], or is guilty of non-manifest theft or picking pockets [Arts. 269, 280] or theft with force [Art. 266], he is exiled and tattooed like an ordinary person. He is not within the category of those who are to remain in [the place where they are] to perform services.*) If a woman commits an offence that requires her to be sentenced to beating with the heavy bamboo, if it is a sexual offence, then when she is punished [i.e. beaten] her clothes should be removed (*leaving the drawers*). For other punishments she will wear a single dress when being punished [i.e. beaten]. She will not be tattooed. If the punishment is of penal servitude or exile, she will receive 100 strokes of the heavy bamboo. As to the remaining punishment, redemption will be received.

**Article 21.** Persons Sentenced to Penal Servitude and Exile Who Again Commit Offences.

Everyone who has committed an offence that has already come to light (*but for which he has not yet been condemned*), and who again commits

an offence, will be sentenced to the heavier [penalty]. If he has already been condemned to penal servitude or exile, and again commits an offence, then he will be sentenced according to the law to the penalty for the subsequent offence. (*This is not within the provision for sentencing to the heavier penalty.*) If he again commits an offence that entails exile, then for all three degrees of exile, sentence him to 100 strokes of the heavy bamboo and to perform four years of compulsory labour in the place where he is exiled. If ([he has been sentenced to] *penal servitude, and he again*) commits an offence entailing penal servitude, then [as a punishment] sentence him to the number of strokes of the heavy bamboo fixed for the second offence, and the number of years fixed for penal servitude [for that offence] (*consider the matter and propose the sentence clearly according to the number [of strokes and years], and moreover order*) compulsory labour that (*added to the former sentence*) will not exceed four years in total. (*This means that if the first punishment was penal servitude of three years, and he has already served one year, and the second punishment was penal servitude of three years, merely add 100 strokes of the heavy bamboo and penal servitude of one year. Altogether, it cannot exceed four years. For the three degrees of exile, although in each case 100 strokes of the heavy bamboo is added, the period of penal servitude is still four years. If the sentence of penal servitude in the first sentence has not been completed, then [the offender] will also, in that case, serve only four years altogether.*) If the (*person sentenced to penal servitude or exile commits another offence*) punishable with strokes of the heavy bamboo or below, then sentence him to the (*number of strokes of the heavy or light bamboo [for the subsequent offence]*). When one sentenced to military exile again commits an offence, the matter is also handled in accordance with this rule). As for the case where it is necessary to inflict strokes of the heavy bamboo, [the rule is] the same. (*This means that astronomers and women who commit [offences] are also to be sentenced according to the law.*)

## CHAPTER 2A

Article 22. *Redemption by Aged Persons, Youths, and Those Who are Disabled.*

Whenever someone who is 70 or over, or 15 or under, or seriously disabled (such as those who are blind in one eye or who have one limb disabled) commits a crime punishable with exile or less, redemption will be received. (If someone is convicted of an offence carrying the death penalty, or if he is sentenced to exile by attain in the case of plotting rebellion [Art. 255], treason [Art. 254], or high treason [Art. 254], or in a case where the members of the household of one who has made or kept gu poison [Art. 289], or mutilated a living person [Art. 288] or killed three persons in one household [Art. 287]—cases in which a household is still exiled despite an amnesty—this law is not used. But as for all other offences involving an injury to another, monetary redemption is permitted. As for those committing offences incurring a penalty of military exile, redemption will be received as in the case of exile.) As for those 80 or over, or 10 or under, or critically disabled (as one who is blind in both eyes or who has two limbs that are disabled) who criminally kills another (by plot [Art. 282] or intentionally or during an affray [Art. 290]) so that he should be executed (beheaded or strangled), the said sentence will be proposed and memorialized to the Emperor. (In the case of rebellion or high treason [Art. 254], this law is not used). The [final] decision [in the case] will be received from the Emperor. If it is a case of stealing, or injuring others (where the offence is not capital), then there may be redemption. (This means that in the case of assaulting and injuring others, it is not permitted [that the wrongdoer should] totally avoid punishment, so it is also ordered that redemption will be received.) As for other offences, they will not be punished. (This means that apart from the previously mentioned cases of killing others, in which a rescript is requested from the Emperor, or stealing and injuring others where redemption is permitted, all the other offences [committed by such persons] are not punished.) As for those 90 or above and 7 or under, even in the case of a capital offence, there is no punishment. (As for those 90 or above who commit rebellion or high treason, do not use this law.) If there is another who induces [such] a person to commit the act, then punish the one who induced him. If there is property illegally received that

must be restored, then the one who has received the property must pay for it. (This means that if a person is over 90 or under 7, he has very little intellect and strength; if there is one who induces him, then the punishment is inflicted on the one who induced him. If there is a theft of property, and another receives and makes use of it, the one who receives it must return it. If the old person or child himself uses it, then it is from him that restitution must be sought).

Article 23. *When at the Time of the Commission of the Offence, [the offender] is not yet Aged or Infirm.*

In every case where, at the time of the commission of the offence, [the offender] is not yet aged or infirm, but at the time when the matter comes to light, he is aged or infirm, then sentence in accordance [with the provisions for those who are] aged or infirm [Art. 22]. (This means that if one who is 69 or under commits an offence, and when he is 70 the matter comes to light, or at a time when he is not infirm he commits an offence, but when he is seriously disabled the matter is discovered, then he may redeem as one who is aged or infirm; or if he is 79 or under and commits a capital offence, and when he is 80, the matter is discovered, or when he is seriously disabled, he commits an offence, but when it is discovered he is critically disabled, he enters the category of person for whom one petitions the Throne [for decision]. If at 89 he commits a capital offence, and the matter comes to light when he is 90, it must be treated as a matter that is not punished.) If he becomes aged or infirm within the period of penal servitude, the case is the same. (This means that if he is 69 or below and the period of penal servitude is three years, and, while the period of servitude has not been completed, he becomes 70, or he began the period of penal servitude not being sick, and during the period of penal servitude he becomes seriously disabled, then he is permitted to redeem as one who is aged or infirm. For penal servitude, take 360 days as constituting one year. Take the number of days of penal servitude and the number of strokes of the heavy bamboo and the amount at which these must be redeemed, then convert into the redemption amount to be received according to the li. [Here li probably refers to the chart containing a table of tariffs for redemption printed in front of the Code. If, at the time of commission of the offence, the offender is a child, and the matter comes to light when he has grown up, decide it according to [the rules for] children. (This means

that if, at 7, a person commits a capital offence and the offence is discovered when he is 8, there is no penalty. If, at 10, he kills someone, and at 11 the matter is discovered, petition the Emperor. If at 15 he commits a theft, and the matter is discovered when he is 16, he will be sentenced as one who can redeem.)

**Article 24. Restitution and Confiscation of Illegally Obtained Property.**

1. As to all cases where two persons are mutually involved in the offences of obtaining property illegally, both acting illegally (*this means that when they commit [the offences] of receiving property illegally and perverting or not perverting the law [Art. 344], calculate the value of the property received; the donor and recipient will receive the same penalty [based on that amount]*), or in cases where there is a violation of the rule prohibiting the possession of certain items (*this means things like weapons whose possession is prohibited [Art. 214] and forbidden books, etc. [Art. 165]*), then [in both cases] these [items or illegally obtained property] are forfeit to the government. If the one obtaining property and the one giving it did not have an agreement, [as where] the matter arose where force was used or there was extortion or demands, the property will be returned to the owner. (*This refers to cases where goods are obtained by duress [Art. 349], or fraud [Art. 274], or by means of a forced purchase and sale with excess profits, or excessive tax levies [collections] [Art. 352] or solicitations [extortion] [Art. 349], etc.*)

2. If the offence entails a sentence of forfeiture of property, and, after the amnesty arrives, the punished (*individual*), although (*prior to the arrival of the amnesty*) his sentence has been executed (*but his household property*) has not yet been confiscated and turned over to the government, he should still escape punishment according to the amnesty. If [the property] has already been confiscated and turned over to the government, or if he committed the offence of plotting rebellion [Art. 254], treason [Art. 255], or high treason [Art. 254] (*as to the property and the relatives incriminated by attain, do not differentiate according to whether the government has taken possession of them*), there will be no avoidance [of punishment]. If (*apart from the cases of plotting rebellion or treason*), the penalty has not yet been executed and the property (*has been inventoried or confiscated*), but although it has (*already*) been sent to the government

(*nevertheless*) it has not been finally arranged for [when it] is delivered to the custody [of an official guardian] consider it as not yet confiscated. Moreover the persons (*sentenced to exile*) by attain, as well as the members of the household (*of the wrongdoer*), may also, although they have been seized and taken into custody by the government, (*if*) the offender (*should receive an amnesty*) by which he may avoid (*punishment*), be released.

3. If a person is punished on the basis of illegally obtained property [Art. 345], and the illegally obtained property still exists, it is to be returned to the government or to the owner. (*That is to say, government property returns to the government, private property returns to the owner. Moreover, if the illegally obtained property was a mule and [the recipient] trades it for a horse, or a mare gives birth to a colt, or a sheep lambs, or other domestic animals produce young, these are all [products of the illegally obtained property] which 'still exist'. If the illegally obtained property) has already been exhausted, and if the offender himself dies, there is no seizure of property in restitution. (If an offender is punished for another offence and dies, it is the same. [For example] if [he is convicted of] some offence other than one involving illegally obtained property, but in the case of the other offence for which he is convicted, it is also necessary to seek restitution; e.g. the amount of funeral expenses*). In all other cases there will be seizure of property in restitution. If wages or rents are computed (*for privately using corvée labourers or privately borrowing government carriages, or ships, etc.*) as illegally obtained property, in the case (*where [the offender] dies*) there is also no seizure of property in restitution.

4. As for evaluating the illegally obtained property, it should all be evaluated according to (*the place*) where the offence was committed and the time (*when the offence was committed*) and according to the average price of goods, and the penalty should be fixed [accordingly]. In computing the wages of labourers, one man for one day receives 8 *fen*, 5 *li*, 5 *hao* [0.0855 taels] of silver. In the case of cattle, horses, camels, asses, mules, carriages, ships, stone rollers, and shops and inns, (*calculate the amount and fix the penalty and order restitution*) on the basis of the wages and rent at the time when the offence was committed. Even though the amount of the rent is large, it may not exceed the value of the article. (*This means that if the value of a ship is 10 taels of silver, the return of 11 cannot be demanded as the amount of rent.*)

5. If the illegally obtained property is gold or silver, it must, in accordance with the statements of the offenders as to its quality, be levied on and forfeited to the government or returned to the owner. If it has already been

be regarded as the principal. (*The chief officer, the assistant chief official, and the head official will have their penalties reduced as above*).

#### Article 29. Error in a Public Matter.

1. Whenever (*an official or clerk*) makes an error in a public matter, and he himself discovers, [corrects], and reports it, he will avoid punishment. In the case of officials who are in the same office (*who jointly prepare and sign a document, and who by law*) must be sentenced by implication, if one of them discovers [corrects], and reports this [error], the rest will escape punishment. (*This refers to those who have committed a public offence without having any private interest. If, before the matter is discovered, one of the officials or clerks in the same office who prepared and signed the document [together] reviews [the document], reports [the error] and corrects it, they will all escape punishment*).

2. If the error consists in mistakenly deciding a case erroneously (*by awarding too heavy a punishment*) and the sentence has already been executed (*still sentence in accord with the offence of mistakenly sentencing another too heavily [Art. 409]*). This law is not used. (*This means that if the penalty is death or strokes of the heavy or light bamboo and has already been inflicted, or if those sentenced to exile have already arrived at the place of exile, and those sentenced to penal servitude have already finished their servitude, these cases are called [cases] where the sentence has already been executed. The officials in charge, although they themselves review and report the matter, do not any of them escape punishment. Each will be punished according to the law of mistakenly sentencing another too heavily [Art. 409] reduced three degrees. And the officials and clerks at different levels will be sentenced with reductions accordingly [according to their positions]. Therefore it is said, do not use this law. As for mistakenly sentencing too lightly [Art. 409], although the sentence has already been executed or [the prisoner] has been released, if the matter has not yet been discovered, and the officials can themselves report the matter and correct the mistake, all may escape punishment for this error.*) If the prescribed period for the delivery of an official document has been exceeded, and among (*the officials*) who must be sentenced by implication there is one who discovers and reports [and corrects] it, the others will also escape punishment. (*The clerk*) who is in charge (*charged with this responsibility*) will not escape [punishment]. (*This means: the prescribed period*

*for documents relating to a minor matter is five days; if it is a matter of medium importance, the period is 10 days; if it is very serious the period is 20 days. If delivery is not completed within the period, this is said to be a delay. If one of the officials himself discovers, [corrects, and] reports it, they may all escape. But the said chief clerk will not escape.*) If [the clerk] who is in charge himself reports [and corrects it], his punishment will be reduced two degrees. (*This means that if the chief clerk himself reviews, reports, [and corrects] the matter, his punishment will be reduced two degrees. The officials escape [punishment] completely.*)

offences and confesses [himself] and accuses [the others], or if the degree of seriousness of the offences is the same, but he captures more than half [of his fellow offenders] and confesses [himself], and accuses [the others] and delivers them, they will all escape punishment. (*The above refers to those who themselves commit an offence. This means that they have jointly committed an offence that is discovered. [It also refers] to the case where each has committed separate offences that were separately discovered and [the offenders] ran away together. As, where a person who is convicted of an offence entailing exile is able to capture someone who is guilty of an offence that entails death, or a person who is convicted of an offence involving penal servitude is able to capture someone who is guilty of an offence punishable with exile and confesses [himself] and accuses him; or, if five persons commit an offence, and, in running away, one of them is able to capture two of the others and makes a confession, all [three] will escape punishment. If the offence is injuring another, or fornication, [the offender] does not escape punishment. He is punished according to the law.*) As for those who are guilty of an offence by implication (*an offence committed by another*), when the principal offender dies naturally, (*the person who is implicated with him*) is permitted to have his own punishment reduced two degrees. (*This rule refers to one who is [criminally liable] by implication. It refers to the case where one person commits an offence and another who is implicated with him [as accessory] is punished: [for example] one hides or guides a criminal, or gives him aid [Art. 393], or serves as his surety or gives evidence that is not true, or someone who fails to discover some matter or keeping guard or controlling [prisoners] or someone who follows the [evil suggestions] of his subordinates. If the offender is not executed officially, but dies naturally, then the penalty may be reduced two degrees.*) If the offender turns himself in (*and escapes [punishment]*), or if there is an amnesty on the basis of which he escapes punishment, or if there is a special amnesty and his punishment is reduced, or if he may redeem his punishment, (*the one who is implicated [in the offence]*) is also given the principal offender's [right to] avoid punishment, or to have a reduction of degree in the punishment or to redeem. (*This means that if a person is sentenced because of implication with another offender, and if that offender afterwards turns himself in, or there is an amnesty so that he escapes punishment, or there is a special amnesty so that [his punishment] is reduced one or two degrees, or if he is permitted to redeem in money, the one who is convicted with the principal offender is also permitted to avoid the penalty, have its grade reduced, or to redeem.*)

**Article 28. Those in the Same Office Who Commit a Public Offence.**

1. When officials and clerks in the same office commit a public offence (*this means officials and clerks in the same office who together prepare a decision or decide a case in a public matter erroneously where there is no violation for private advantage*), take the chief clerk as principal. The chief officer will have his punishment reduced by one degree from that of the chief clerk, the assistant official will have his penalty reduced from that of the chief officer one degree. The head official will have his penalty reduced from that of the assistant official one degree. (*If, within the office, there are some missing officials, the penalty will still be reduced according to these four grades. If the yamen is not designated to have four grades, then merely permit reduction of the number of grades in accordance with the numbers there are.*) If, in an office, someone commits a private offence, sentence him according to the offence of intentionally decreasing or increasing a sentence [erroneously] (*a private offence*) [Art. 409]. If they do not know the circumstances, the others will merely be sentenced for the offence of mistakenly increasing or decreasing a sentence [erroneously] (*a public offence*) [Art. 409]. (*This means that if, in the same office, there are five men who together sign a public document, and one of them has a private interest, he will be sentenced for the offence of intentionally decreasing or increasing the sentence. The other four, although their [names appear] together on the document, will, if they do not know the circumstances, only be sentenced for the offence of mistakenly sentencing too heavily or too lightly. There will still [in addition] be reductions in sentences according to the four grades.*)

2. If (*the lower official*) sends a report to higher officials (*and there is some error and the higher officials*) do not perceive that there is an error, but forward it, then each will be punished by an amount less than the lower official's by two degrees. (*This refers, for example, to the case where the district petitions the department, and the department petitions the prefecture, and the prefecture petitions the provincial administration commission.*) If the superior issues an order to an inferior to carry out a matter (*and there is an error, and*) the inferiors carry it out according to the error, each will be punished by an amount reduced from that of the superior officer by three degrees. (*This refers, for example, to the case where the provincial administration commission gives an order to the prefecture, and the prefecture gives an order to the department and the department gives an order to the district*). Also the chief clerk should

consumed and does not exist, then restitution will be in fine metal. (*This means that if the actual illegally obtained property that was originally stolen or obtained was gold or silver that has already been consumed and no longer exists, then restitution will be in fine metal.*)

#### Article 25. *The Perpetrator of an Offence who Confesses.*

1. Everyone who commits an offence that is not discovered, who confesses, will avoid the penalty. (*If there is illegally obtained property, although the penalty is avoided still there will be a levy on and restitution of the illegally obtained property. This means that if [there is receipt of consideration], whether or not there is perversion of the law [Art. 344], the illegally obtained property is levied on by the government. If there is the use of force that causes an event to occur as a result of which [property] is obtained, or if there is extortion, or fraud, or excessive levying [of taxes], or solicitation, etc., as well as in the case of forcible theft [Art. 266] or non-manifest theft [Art. 269], it—the illegally obtained property—must be given to the owner.*) If, although a minor offence has come to light, [the offender] confesses to a more serious one, he will avoid punishment for the serious one. (*That is to say, if non-manifest theft [Art. 269] has come to light and he confesses to counterfeiting copper cash [Art. 359], he will avoid the punishment for [the more serious offence] counterfeiting, and only be punished for non-manifest theft.*) If in the course of the investigation of a matter as to which he has been prosecuted, he speaks of other offences, decide the matter in the same manner as above. (*Merely sentence in accordance with the nature of the offence under investigation and do not sentence for the other offences. That is to say, if he is investigated because of private salt-manufacture and trade [Art. 141], and, without torture, he confesses to the non-manifest theft of a cow [Art. 270], and, moreover, to the defrauding of another [Art. 274], merely punish him because of the private salt-manufacture and trade. The remaining penalties may be avoided.*)

2. If (*although the offender himself does not confess,*) he sends another to represent him in confessing, or if those who, by law, may conceal each other [Art. 32] (*as, some of his relatives*) confess for (*him*), or if they make accusations against one another (*incriminate each other* [Art. 337]), then each may be treated like the offender who himself confesses ([i.e.] *they all avoid punishment. 'Sending someone else to represent him' and confess*

*means that if A commits an offence and sends B to confess for him, whether they are relatives or not, in any case it is just as if he had confessed himself—he will avoid punishment. The phrase 'those who, according to the law, may conceal each other' who confess means relatives who live in the same household and are in the third degree of relationship and above. If [they or] a slave or hired servant confess for the household head, or they mutually accuse each other, all may avoid punishment just as if the offender had confessed. If a relative of inferior rank, or one who is junior, makes an accusation against a relative who is superior or older, the relative who is superior or older, according to the law of confession, will escape punishment. The relative who is of inferior rank or younger will be adjudged according to the law of offending against one's status and violating duty [Art. 337].* If the confession is not accurate or complete (*for a serious offence he confesses to a minor one, for a large amount of illegally obtained property he confesses to a small amount of illegally obtained property*), punish him for the part of the offence that was incorrectly or incompletely reported. (*If the amount of the illegally obtained property that is confessed to is incorrect, merely calculate the amount that was omitted and sentence on that basis.*) If [the punishment] is death, let it be reduced one degree. If he [the offender] knows that someone else intends to accuse him, or if he has run away (*as, if he flees to the mountains or the marshes*), or if he engages in plotting treason (*that is, does something like fleeing his own country*), and he confesses, reduce the penalty two degrees and sentence him accordingly. If the one who runs away or commits treason, even though he does not confess, returns to his own jurisdiction, reduce his punishment two degrees.

3. If he injures another (*because of his offence he kills or injures another, and confesses, he will avoid the punishment for the original offence. He will still be punished under the law applicable to the killing or injury. If it is a case of a non-intentional [offence], then follow the law for that case. If he injures*) a thing that cannot be compensated for in money (*this means something like throwing away or destroying a sealed letter or government document or a prohibited military weapon or prohibited books—things that a private household may not have or that cannot be repaid—he is not permitted to confess. If the thing exists, and he confesses, he may avoid punishment in accordance with the law of confessions.*) If the matter is discovered while he is in flight (*if he has already been imprisoned and escapes from prison but confesses, then although he may not confess and avoid punishment for the fault he has committed [i.e. injuring something that cannot be compensated for], he may reduce the penalty for fleeing by*

*two degrees, though the principal offence is not reduced. If he flees before being delivered to the government, there is no additional offence. The penalty for the principal offence is reduced two degrees.*) If he has crossed the frontier without authority, or been guilty of fornication, then he is not within the rule of [avoiding the penalty by] confession.

4. If he obtains the property of another by either forcible [Art. 266] or non-manifest theft [Art. 269], or by deceit [Art. 274], and goes to the owner of the property and confesses, or if he has received illegally obtained property from another, whether or not it causes perversion of the law [Art. 344], and, regretting this, he returns it to the owner, then, as in the case of the confession to an official, he will avoid punishment. If he knows another intends to denounce him and goes to the owner and confesses and restores [the illegally obtained property], his punishment is reduced two degrees. In the case of those who have committed forcible theft [Art. 266] and non-manifest theft [Art. 269—the offence being carried out with others], if they can apprehend their companions [accomplices] and deliver them to the government, they also may avoid punishment. Moreover, they will be given a reward in the same way as ordinary people. *(If, after someone has committed the offence of forcible or non-manifest theft, he confesses, and [thus] avoids punishment, [and then] he again commits an offence, he is not permitted to [avoid punishment by] confessing.)*

**Article 26. In the Case Where Two [Offences] Come to Light,  
Sentence on the Basis of the More Serious.**

If two or more offences come to light, sentence on the basis of the more serious. If they are of the same degree, then fix the sentence according to one of them. If one offence comes to light first, and the sentence has been adjudged, and the other offences subsequently come to light, if [the subsequent ones] are less serious or equal, they will not be punished. If they are more serious, then there should be re-sentencing. Compute the amount [of the sentence] of the first offence *(the one for which a sentence has already been adjudged)*, and it will be included in the penalty for the subsequent *(ones to come to light. This means that if there are two instances of non-manifest theft [Art. 269], and the illegally obtained property in the first case amounts to 10 taels, and [the offender] has already received 70 strokes with the heavy bamboo, and then the second comes to light, and the value of the illegally obtained property amounts to 40 taels for which*

*the penalty is 100 strokes with the heavy bamboo, the difference to be administered is 30 strokes with the heavy bamboo. [Again, consider the case of someone who is receiving a salary from the government [an official on the payroll] who, on several occasions, has obtained property illegally from others in the amount of 40 taels and caused perversion of the law [Art. 344], and a matter of 20 taels came to light first, and he has already received 60 strokes with the heavy bamboo and penal servitude of one year, and then the matter of another 20 taels comes to light. This amount, when added to the previously discovered amount makes 40 taels. In that case, change the sentence to [a sentence appropriate] for the entire amount, [that is to say] penal servitude of three years. [For the offences of] obtaining property illegally without causing perversion of the law [Art. 344], and illegally obtained property [Art. 345], do not decide on the basis of the entire amount added together.)* If the *(illegally obtained property)* must be forfeit to the government, or *(the property)* must be compensated for, or *(the thief)* must be tattooed, or *(the official)* must be dismissed, or if the punishment is limited [to a maximum] *(whether the penalty is not to be imposed because there is a heavier one [i.e. the penalty for the second offence is less than that for the first], or because of [the rule of] punishing only one offence)*, in each case the complete punishment provided for in the special law for that act will [nevertheless] be applied. *(That is to say, if a person commits a number of offences, and, for example in the case of [receiving consideration] whether or not it causes perversion of the law [Art. 344], the illegally obtained property must be forfeit to the government; [in cases where] there is injury to things, this must be compensated for; if there is non-manifest theft [Art. 269], there must be tattooing; if an official on active service commits a private offence with penalties totalling 100 strokes or above, he will be dismissed; if a person who is not on the government payroll receives property in the amount of 120 taels or more illegally and does not cause perversion of the law, the punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li. In each case of this type apply the complete punishment which that special law provides.)*

**Article 27. Common Flight by Offenders.**

In every case where those who have committed offences run away together, if one who was convicted for an offence entailing the lighter punishment is able to catch the ones who have committed the more serious

CHAPTER 2 B

Article 30. *Distinguishing Principals and Accessories in Joint Offences.*

1. In the case of all offences committed by [two or more offenders] together, regard the one who (*first*) formulated the plan (*one person*) as the principal (*and propose a sentence according to the law*). The punishment of those who accompanied him will be reduced one degree.

2. If the members of one household commit an offence together, merely punish the most superior and eldest member. If the most superior and eldest is 80 or over, or critically disabled, then punish the one of the joint offenders who is next in order according to superiority [in rank] and seniority. (*If there is no subsequent person who is superior and older, only the most inferior and youngest person can be prosecuted. This means that if the senior and older [family members] and the inferior and younger members commit an offence together, [the question] of planning is not considered. Only the most superior and eldest is condemned, the younger members are not guilty. [This is] because the most superior and eldest is in control [of the family]. If the most superior and eldest is 80 or over or critically disabled, then according to the rule [Art. 22] he is not condemned. [In that case], take the family member who is next to him in age who participated in the offence. If it is a woman who is most superior and eldest who commits an offence together with her husband and the younger members, then, although she may have been the principal, still merely condemn the [senior] man.*) If there is a trespass or injury to another, decide according to the rule of principal and accessories [which applies to] ordinary people [not family members]. (*The one who formulated the plan is the principal. Those who accompany are the accessories. 'Trespass' means the non-manifest theft of property [Art. 269]. 'Injury' means something in the nature of affrays, blows, killing, wounding, and the like. If a father and son in the same household commit an offence, then sentence both according to the law of 'principals and accessories' [above]. This is because the trespass or injury is done to another; therefore one does not merely condemn the most superior and eldest [family member].*) If there is a joint offence but the penalties for principal and accessories are different, sentence the principal or accessory according to the [penalty] in the law that is

applicable to him. (*One person is condemned on the basis of the penalty for the principal and the others are condemned as accessories. This means that if A induces other persons to engage in joint beating of his older brother, A, according to [the rule of] the younger brother beating the older, will receive 90 strokes of the heavy bamboo and penal servitude of two and a half years [Art. 318]. The other persons will be punished according to the ordinary rule of persons engaging in an affray [Art. 302] to 20 strokes of the light bamboo. Moreover, if an inferior or younger person leads outsiders to steal his own family's property to a value of 10 taels, the inferior or younger person is punished on the basis of 'without authorization making use of [family] property' [Art. 88] increased by two degrees [to make] 40 strokes of the light bamboo. The outsiders will be condemned according to the law of 'accessory to ordinary theft' [Art. 269] to 60 strokes of the heavy bamboo.*)

3. If a provision uses the term 'all' [*jie*] then the penalty is not differentiated according to principals and accessories. If it does not use the term 'all' [*jie*] then [the sentence] is in accordance with the rule for principals and accessories.

4. If the (*joint*) offence consists of unauthorized entry into the imperial city, or into the imperial palace [Art. 184], or going past the frontier without authority (*together*) [Art. 220], or escaping corvée labour (*together*) by fleeing [Art. 84] or (*together*) committing fornication [Art. 366] (*although the law does not use the term 'all'*), there is also no principal or accessory. (*This means that each will be personally liable for the offence, and this is why no distinction is made between principal and accessory. They will all be awarded the sentence provided [in the law] for the offence committed.*)

Article 31. *The Facts of the Offence are Discovered While the Offender is in Flight.*

1. In every case where two people jointly commit an offence, and one person has run away, and the one who was caught claims that the one who is in flight is the principal and there is no (*one else*) to prove [the truth of the matter], then punish (*him according to his statement*) as an accomplice. If, when the one who has run away is later caught, he states that the first (*person*) caught was the principal, interrogate and put them to the question, and, if [his assertion] is true, re-sentence (*the person who was*

*caught first*) as principal, taking into account the former penalty (*that was executed*) [for the matter] in order to complete the amount that is subsequently (*decided on*) [i.e. award a penalty that, when added to the penalty previously awarded, amounts to the penalty for the principal].

2. If, when an offence is discovered, there is one who is in flight [as to whose guilt] the evidence is sufficient and clear, (*whether he is the principal or is the accessory*), then there will be an immediate definitive judgment [as if there had been a trial]. (*Later, when he is taken before the magistrate, [the latter] will decide the matter on the basis of the original statements.*) It is not necessary that there be a confrontational interrogation. (*Moreover, add to the penalty [adjudged] two degrees for escaping. If the offender ran away before being brought before the official, do not add the two extra degrees. Note: This addition to the penalty for escape was originally in the Jian-shi and Suo yan [two treatises].*)

#### Article 32. Relatives Who [May] Conceal Each Other.

1. All those who live together (*'together' means relatives with common property who live together. It is not limited by whether they are registered together or separately. Even if there is no mourning relationship among them [persons meeting these qualifications] are also included*), as well as relatives of the third degree or above, (*this means that relatives of the third degree or above who are living separately are 'relatives'; this is because mourning is important*) maternal [external] grandparents, children of daughters, wives' parents, sons-in-law, the wives of sons' sons, a husband's brothers, or brothers' wives (*this is because 'affection' is important*), if there is an offence, (*may mutually*) conceal it among themselves. When a slave or hired servant (*because duty [is] important*) hides the family head, there is no punishment. (*The family head may not hide a slave or hired servant because it is his duty to control their misdeeds.*)

2. If there is someone who divulges a matter and communicates it so that the accused [offender] hides and avoids capture and runs away (*if [the one divulging the information] is within the [class of persons who], according to the law, may hide [the accused]*), there is no prosecution. (*This means that if, among those relatives who may hide each other, one commits an offence, and the official having jurisdiction causes him to be pursued in order to arrest him, those who divulge the matter and secretly communicate it to the offender, causing him to hide and avoid capture and run away, are not prosecuted.*)

3. In the case of those who are in the fourth degree of relationship or below, who mutually hide one another and divulge information [on impending arrests], reduce the [penalty] from that for ordinary people by three degrees. If they are relatives outside the degrees of mourning, reduce it one degree. (*This means relatives of the fourth degree and below who live separately.*)

4. If the offence is plotting treason [Art. 255] or above, do not use this law. (*This means that although they are relatives within the degrees of mourning [and hence may conceal the offender], if the offence is plotting rebellion, high treason [Art. 254] or treason [Art. 255] and they hide him and do not turn him in, they are sentenced according to the law. Therefore [the text] says, do not use this law.*)

#### Article 33. Executing Military Personnel Guilty of Treason.

1. If there is a military person stationed in a fortified city of the distant frontier (*an important place*) who plots treason [Art. 255] and the Commandant [of the defence] seizes him and brings him to the authorities and if there is good evidence that proves the matter clearly and upon thorough investigation and putting the suspect to the question, he makes a confession, notify the Governor-General and the Military Commander who will examine the judgment and interrogation to see that there is no injustice. [The offender] will be executed immediately according to the law. This will all be memorialized, together with the reasons, to the Emperor. If it is at the front (*that there is plotting of treason and*) the offender is seized at the moment of going into battle and executed (*the matter being clear and the case urgent*), [the case] is not within this rule (*of giving authority to try or jointly trying the case*). After the [execution], the matter must also be memorialized to the Emperor.)

#### Article 34. Those Who Are Outside Chinese Civilization Who Commit Offences.

In the case of all those who are outside Chinese civilization ([this includes minority people such as the Miao and those who have] *entered [China] and submitted [given their allegiance to China]*) who commit offences, the

matter is to be decided in accordance with the law. Those subject to the Court of Colonial Affairs are still governed by the original Mongol Regulations.

**Article 35. When the Special Article has Different Specified Punishments** [from those in Names and General Rules].

1. Whenever a special article has a specified penalty which is different from the one in this part (*Names and General Rules*), adjudge the penalty according to that article.

2. If, although an article specifically punishes [an act, the offender] has (*the intention*) to [use that article] to avoid the heavier penalty (*one is not held to the special article*); rather, [the matter] will naturally be decided according to the [law that provides the] heavier (*penalty*) that ([the offender] *sought to avoid*).

3. If the special [article] itself provides for a heavier penalty, and at the time of committing the offence [the offender], does not know this, then sentence him like an ordinary person. (*This means that if, for example, a father's brother and a brother's son lived and grew up in different places, and they did not know each other at all, and the brother's son struck and wounded the father's brother, and it was not until the official having jurisdiction investigated that he knew [the victim] was his father's brother, he is merely to be sentenced as an ordinary person participating in an affray [Art. 302]. Or, if someone engages in non-manifest theft [Art. 269] in some place, and steals a sacred object used for the major sacrifice, and at the time of the theft he does not know this, he will merely be punished according to the general rule—the law of the usual theft of an object [probably Art. 269].*) If the special [provision] provides for a lighter penalty, he will be prosecuted according to the special provision. (*This means that if a father does not recognize the son, and only knows [that he is his son] after having fought with and beaten him, he will merely be prosecuted according to the law of hitting a son [Art. 319]. He cannot be prosecuted on the basis of the general rule of engaging in an affray [Art. 302].*)

**Article 36. Rules for Adding to or Reducing the Penalty.**

Wherever the term 'increase' is used, then the basic penalty is increased in severity. (*This means that if a person commits an offence entailing a penalty*

*of 40 strokes with the light bamboo, and it is increased by one degree, then impose the penalty of 50 strokes with the light bamboo. If a person is sentenced to 100 strokes with the heavy bamboo, increased by one degree, then add penal servitude, and reduce the number of strokes with the heavy bamboo. That is, he is sentenced to 60 strokes with the heavy bamboo and penal servitude of one year. If he is sentenced to 60 strokes with the heavy bamboo and penal servitude of one year, and one degree is added, then sentence him to 70 strokes with the heavy bamboo and penal servitude of one and a half years. If he commits an offence entailing a penalty of 100 strokes with the heavy bamboo and penal servitude of three years, and one degree is added, then he is sentenced to 100 strokes with the heavy bamboo and to exile to 2000 li. If he commits an offence punishable by 100 strokes with the heavy bamboo and exile to 2000 li, and one degree is added, then sentence him to 100 strokes of the heavy bamboo and exile to 2500 li, etc.)* When the term 'reduce' is used, this means to take the basic penalty and reduce it to something lighter. (*This means if a person commits an offence punishable by 50 strokes with the light bamboo, and it is reduced one degree, then he is punished with 40 strokes with the light bamboo. If he commits an offence punishable with 60 strokes with the heavy bamboo, and penal servitude of one year, and it is reduced one degree, then he is punished with 100 strokes with the heavy bamboo. If he commits an offence punishable with 100 strokes with the heavy bamboo and penal servitude of three years, reduced one degree, then sentence him to 90 strokes with the heavy bamboo and penal servitude of two and a half years.*) However, the two [penalties] of death and the three [sentences] of exile, are treated as being equal to one degree for reduction. (*The two [penalties] of death are strangulation and beheading. The three [sentences] of exile are exile to 2000 li, 2500 li, and 3000 li. Each [category i.e. both of the death penalties taken together or all the three degrees of exile taken together] is the equivalent of one degree. If an offence punishable with death is reduced one degree, then sentence to exile to 3000 li. If it is reduced two degrees, then sentence to penal servitude of three years. If a person is sentenced to exile to 3000 li, and the punishment is reduced one degree, also sentence to three years of penal servitude.*) When [a penalty is] increased, the amount must be complete, and only then will the [increased punishment] be adjudged. (*This means if there is increase in the penalty for illegally obtained property which requires an increased penalty, if the amount is 40 taels, and [the amount actually taken] adds up to 39 taels, 9 qian 9 fen, [i.e. 39.99 taels], then although*

*it is less by [only] one fen, it is not permitted to award the punishment for 40 taels.)* Moreover, the increased penalty is limited to 100 strokes with the heavy bamboo and exile to 3000 *li*. It must not be increased to death. If a particular article increases a punishment to death, then the particular article is followed. (*If there is increase to strangulation, do not increase to beheading.*)

**Article 37.** *The Expression 'Sedan Chairs and Carriages for the Use of the Emperor'.*

Whenever (*in the law*) there is use of the terms 'sedan chairs and carriages for the use of the Emperor' or 'for the imperial use' (*as 'an object for the use of the Emperor', 'a place where the Emperor eats', 'imperial dwellings', and the like, [the law] naturally refers to the Son of Heaven, but*) the Emperor's paternal grandmother, the Emperor's mother, and the Empress are all included as well. When [the law] speaks of the Emperor's written order (*naturally it means an imperial rescript—but it also refers to*) orders coming from his paternal grandmother, mother, and the heir apparent which are [treated in] the same way. (*If there is the commission of the offence of destruction or loss of or injury to an imperial written order [Art. 63], or theft [Art. 258] or falsification [Art. 355] of imperial written orders, or entering the palace gates without permission [Art. 184], etc., all must be punished in the same way [whether the document is that of the Emperor or his mother, for example].*)

**Article 38.** *The Expressions 'Relatives of the Second Degree' [for Whom One Wears Mourning of One Year] and 'Paternal Grandparents'.*

Whenever (*the law*) speaks of 'relatives of the second degree' [for whom one wears mourning of one year] or mentions 'paternal grandparents', the next two higher generations [i.e. father's paternal grandparents and father's father's paternal grandparents] are [treated in the] same way. If it speaks of sons' children, the two younger generations [i.e. son's sons' children, and sons' sons' son's children] are [treated in] the same way. A son's son

in the direct line [descended from the official wife, whose father is dead] who succeeds to his paternal grandfather, is considered to be in the same relation to [his paternal grandparents] as to his father and mother. (*As for those guilty by attain, in each case follow the provisions of the particular law for paternal grandparents and sons' children, respectively.*) As for his rightful mother [the father's official wife], the father's subsequent [official] wife [i.e. the woman married as an official wife after the first official wife dies], the caring mother [a concubine charged with the care of a child whose mother has died], an adoptive mother (*all cases involve three years of mourning, if there is an offence against one of them*), then (*so far as the law is concerned*), they are considered the same as natural mothers. (*If one of these is a widow who has remarried or a wife whose duty to her husband is extinguished [as if she is divorced], and if she strikes and kills her 'son' or 'son's son', then she is not considered to be the same as a natural mother.*) When the word 'son' is used, it refers to males and females. (*In the case of liability by attain, daughters are not the same [as sons].*)

**Article 39.** *The Expression '[Punish] with the Same Penalty'.*

1. Whenever (*the law*) uses the phrase [a person is] to be '[punished] with the same penalty', then [that person] (*this means a person who is guilty because of implication who is punished along with the one who is directly responsible for the offence; the circumstances [of his offence] are less serious [than those of the principal offender] and he*) will only be liable for that punishment [as follows]. (*If the punishment of the principal offender amounts to death [the person who is sentenced to the same punishment] will have his penalty reduced one degree, and the penalty will be limited to 100 strokes with the heavy bamboo and exile to 3000 *li*. [If the principal offender must be tattooed, the one punished with 'the same penalty' avoids the tattooing, and therefore it is said] [he] is not within the rule of being tattooed, nor is he to be strangled or beheaded. If a person receives consideration and intentionally releases [a prisoner] [Art. 392] and is punished with the same penalty, (*his offence is serious*), and he will receive the whole penalty. ([One who is thereby sentenced to] *death will be [executed] by strangulation.*) One who intentionally releases those guilty of plotting rebellion [Art. 254], treason [Art. 255], or high treason [Art. 254], is punished in accordance with the respective laws (*with beheading or**

*strangulation*). When [the law states that an act is] 'to be punished with the same penalty [*tong-zui*]', [if the penalty] is death, reduce it one degree; if it says 'the penalty is the same [*zui-tong*]', even if [the penalty] is death, do not reduce it).

2. Where [the law] says, sentence as if it were [a case of receiving consideration] and causing perversion in the law [Art. 344] or 'sentence as if it were theft' [Art. 269], etc. (*the offences are similar but the circumstances are less serious*), then the penalty [for that article] will be applied, but the penalty is limited to 100 strokes with the heavy bamboo and exile to 3000 *li*. There will be no tattooing.

3. Where [the law] states 'sentence on the basis of [receiving consideration] and causing perversion in the law' or 'sentence on the basis of theft', etc. (*the facts are of the same degree and the circumstances are equally serious*), the punishment is the same as for the principal offence. The tattoo, strangulation, and beheading are all adjudged according to the respective provisions of the law (*but it must be the law that says 'the same penalty'*). If it is not the law [that so provides, but the law] is filled out by a sub-statute providing such things as 'military exile' or 'return to the condition of the people', then it cannot be [treated as if the term] the 'same' [were used].)

#### Article 40. *The Expression, 'Supervisors and Guardians'.*

1. In every case where (*the law*) uses the term 'supervisor', both in cases within and without the capital, all officials who have control over persons subordinate to them and who control all of the official documents related to [such persons], as well as those who, although their office is not one that controls people, are in control of matters (*who have responsibilities in another place to be in charge of such things as the supply of troops or water conservancy; etc.*), are regarded as supervisors. As for the term 'guardian', (*in every yamen both within and without the capital*) those who have control over documents and cases, the chief clerk in charge of special matters and those who are in charge of warehouses, prisons, and miscellaneous objects, [persons such as] officials, treasury janitors, grain measurers, checkers, and jailers, are all 'guardians'.

2. If a person's position does not include general direction, but he is temporarily sent to control and direct the carrying out of some matter, then he is also a 'supervisor' or 'guardian'.

#### Article 41. *The Designation 'Day' Uses 100 Periods.*

(*Now the Almanac regards each day as having 96 periods—quarter hours.*) In every case where (*the Code*) mentions 'day', it means 100 periods. (*In [dealing with] the commission of an offence and a violation of the law, compute the number [of the periods that have elapsed to see] if they fulfil [the number required by law for the penalty] and sentence.*) In computing labour, compute from sunrise in the morning to sunset. (*The '100 periods' [referred to above] is not used.*) The expression 'one year' means 360 days. (*Thus if the [payment] of the autumn grain tax is delayed, even if the delay amounts to 359 days, it is still not one year.*) As for a person's age, use the register to establish it. (*This means that when [the Code] speaks of a person's age, the inscription in the register is used.*) When the word 'several persons' is used, it means three or more. When the Code says 'plot' it means two or more persons. (*When the circumstances of the plot [premeditation] are evident, then although there is only one person, the same rule [is used] as if there were two persons.*)

#### Article 42. *The Use of the Term 'Taoist Priest or Nun'.*

Whenever (*the Code*) uses the phrase 'Taoist priest or nun', it also applies to Buddhist priests or nuns. (*If a Taoist priest or nun commits fornication, add two degrees to the penalty for ordinary people, Buddhist priests or nuns are also [treated] in the same way.*) If it [i.e. the offence] is directed towards the master from whom [a priest or nun] received instruction, it is the same as [an offence] against a father's older or younger brothers or their wives. (*If a layman curses his father's older or younger brother, or their wives, the penalty is 60 strokes with the heavy bamboo and penal servitude of one year [Art. 328]. If a Taoist or Buddhist religious curses his master, the penalty is the same. The phrase, 'The master from whom he received instruction' means the one from whom he received personal instruction in the classics within the Buddhist or Taoist temple who ought to be treated as a master.*) As for the acts [of masters] towards disciples, it is the same as acts towards an elder or younger brother's children. (*If a layman strikes and kills the child of a brother, he receives 100 strokes with the heavy bamboo and penal servitude of three years [Art. 318]. If a Taoist or Buddhist priest strikes and kills a disciple, the penalty is the same.*)

**Article 43. Deciding a Punishment According to Newly Promulgated Laws.**

Every law comes into effect the day it is promulgated. If the offence was committed prior to that, the punishment should nevertheless be determined under the new law. (*If an offence is committed before the effective date of a sub-statute, it is to be decided in accordance with the law and the sub-statute already in existence. If the sub-statute sets out an [effective] date, then use that in the decision. If the new sub-statute is more lenient, then follow the new sub-statute.*)

**Article 44. Deciding a Case Without a Precise Article.**

All the laws and rules [ling] together do not completely provide a basis for deciding every [possible] case. If, in deciding on a punishment, there is no precise article (*choose*) cite (*another*) law and decide the case by analogy. Decide whether the penalty must be increased or decreased and propose a name for the offence. ([The case] *is to be submitted to the superior*) and after deliberation, it will be memorialized to the Emperor. If [the official] decides in an arbitrary manner that results in mistakenly awarding a sentence that is excessive or deficient, then sentence [him] for intentionally or mistakenly [decreeing an excessive or deficient penalty. Art. 409].

CHAPTER 2C

**Article 45. Places for [Serving Sentences to] Penal Servitude, Exile, and Transportation.**

In every case of penal servitude [the prisoner] must serve the number of years [provided in the sentence]. The term of service is computed to begin from the day [the prisoner] arrives at the place [for performing the] penal servitude. When the term [of penal servitude] is completed, the person sentenced will be released. When it is a punishment of exile, compute the number of *li* from a place in his own province to the place to which he must be exiled, and settle him in a department or district in a deserted or coastal area. When a person is sentenced to transportation, then transfer him to a place 1000 *li* away from his native place.

For the five degrees of penal servitude, have [the offender] delivered by a relay station in his own province [to the place of service].

For the three degrees of exile, [there follows a list of the places to which persons from various provinces are exiled: e.g. persons from Anhui are sent to Shandong. The methods that were actually used were much more complicated than indicated in the Code. See Bodde and Morris, *Law in Imperial China*, 85.]

**Article 46. Places for Military Exile.**

Whenever anyone is sentenced to military exile, if it is to the very near frontier, exile him to 2000 *li*. If it is to the nearby frontier, exile him to 2500 *li*. If it is to the distant frontier, exile him to 3000 *li*. If it is to the farthest frontier, or a malarial region, in both cases exile to 4000 *li*. The place in which the military exile [will be served], will be specified. [If the tribunal] is in the Capital, the Board of War will specify it. If it is outside [the Capital], the (*provincial*) governor will specify it. Moreover, he will send a copy [of the order] to the Board of War. [There follows a list of the various places to which those sentenced to military exile would be sent according to the offender's place of origin. Again, the system actually used was much more complicated. See Bodde and Morris, *Law in Imperial China*, 87-91.]

PART II  
[Laws Relating to]  
*The Board of Personnel*

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CHAPTER I  
*The System of Offices*

**Article 47. Officials with Hereditary Rank.**

1. In the case of all civil and military officers who have an inheritable title, the eldest son or son's son of the official wife will be designated to inherit it. If there is a reason [that the] eldest son or son's son of the official wife [cannot inherit] (*he is dead, or sick, or is guilty of fornication, or theft, or the like*), then the subsequent sons and son's sons of the official wife will inherit in order of age. If there are no subsequent sons or sons' sons of the official wife, only then may the concubine's eldest son or son's son be designated to inherit the title. If there are no sons or sons' sons of the concubine, the [title holder's] younger brother or his son who is eligible to inherit [the title] may be designated to inherit the title. If the son or son's son of the concubine or the younger brother or his son exchanges positions and inherits out of order, he will get 100 strokes with the heavy bamboo and penal servitude of three years. (*Moreover the title will be inherited in accordance with the proper order of succession.*)

2. The son or son's son who is entitled to receive the title (*the clan members and all the officials in the appropriate office* [that to which the decedent belonged] *clearly guaranteeing* [his right to inherit]) will send a document ([requesting] *the said office*) to petition the Throne for investiture [of the son or son's son] with the title and salary. If the son or son's son who is inheriting is a minor, he will wait until he is eighteen before appearing at Court and entering into the public service. If the line is indeed exhausted, and there is no one capable of inheriting, the widow and family of the [last holder of the title] may petition the Throne, according to the sub-statute, that a pension be awarded to them, to support them for their lives. If a person of a different name from outside the family is taken in and brought up as a son to deceive the government officials, and deceitfully obtains the position, the adopted son will receive 100 strokes with the heavy bamboo, and be sent to the distant frontier in military exile. The pension which his family has received (*when the matter is discovered*) is to cease from that day. Other persons who have induced ([the commission of] *this usurpation and deceit*) will receive the same penalty as the offender.

3. If the official having jurisdiction knows (*of the violation of the order*

and the usurpation and deceit), and permits it to occur, he receives the same penalty. If he does not know, he is not punished. (If he received consideration for assisting or guaranteeing, then sentence on the basis of [receiving consideration and] causing perversion of the law according to the heavier penalty [Art. 344].)

**Article 48. A Grand Minister Who Selects an Official On His Own Without Authorization.**

1. All appointments of officials (including those chosen for both civil and military posts) must be made by the Court [i.e., the Emperor]. If a Grand Minister selects someone on his own, without authorization, he will be beheaded (with delay).

2. It is not permitted to bestow an office on a paternal or maternal relative of a Grand Minister (if he is not one who is entitled to be selected because of passing the examinations or for other reasons), unless a special imperial rescript has been received [permitting it]. A violation is punished the same [as above in 1]. (The one selected will not be punished.)

3. An official who is, at the time, occupying a position at Court, who, in the presence [of the Emperor], is sent on a mission or transferred (to a position in the provinces), regardless of whether it is near or far, and on a pretext does not go, will also receive 100 strokes of the heavy bamboo and be removed from office. He cannot return [to service].

**Article 49. Civil Officials are not Permitted to be Created Gong or Hou.**

In every case where, in the case of a civil official who has not accomplished great benefits for the country, the persons under whom he serves make a misleading request by petition which results in the Emperor granting him the patent of nobility as gong or hou [without proper consideration], the said official [making the request] and the one receiving [the title] will both be beheaded (with delay). In the case of those who, while living, have served as generals or Grand Counsellors and have saved [the state] from great harm and have served the state with great loyalty, and who are given the rank of hou [while living] or gong [after death] in the same way as

those who have shown meritorious service in founding the dynasty, this law is not applied. (When one is alive and receives a patent of nobility, the word feng is used [for the act of bestowal]. When there is a bestowal after death the word shi is used.)

**Article 50. Providing for an Excessive Number of Officials.**

1. Every yamen in the capital or outside has an officially designated number of officials. If more are added, then the said official (i.e. the one who did the selecting) [will be punished as follows:] for one person, 100 strokes of the heavy bamboo, for each [additional] three persons add one degree with a maximum of 100 strokes of the heavy bamboo and three years of penal servitude (if he has received any consideration, then compute the amount and sentence on the basis [of receiving consideration] and causing perversion in the law, according to the heavier penalty [Art. 344].

2. One who hires chief clerks, keepers of the seal, runners, ushers, jailers, archers, etc. excessively—beyond the prescribed number [the complement of employees]—will be punished with 100 strokes of the heavy bamboo and will be transported (compared to exile, this punishment is less by one-half and is replaced by a sentence to penal servitude of two years). If he permits such a person [an excess employee who ought not to be there] to stay, the official in charge will receive 20 strokes of the light bamboo. The chief officer will receive 30 strokes of the light bamboo. The clerk will receive 40 strokes of the light bamboo. For every three [additional] persons, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. The punishment is to be given to those who give rise to the condition [of excess]. (The excess persons who are permitted to remain are not punished.)

3. Officials who are on leave or who have been discharged who, while they are outside the government, involve themselves in official matters, get hold [of authority to] write and send documents, dominate government agencies, corrupt the administration and injure the people, will receive 80 strokes of the heavy bamboo. Moreover, an offender will be levied on to the extent of 20 taels of silver to be paid as recompense to the one who denounced him. If this action is taken with the intention to avoid the application of a rule, it will be punished in the heavier degree.

4. If officials have hired persons to write records for the receipt of taxes in money and kind, and in preparing population registers, there is no penalty.

**Article 51. *The Warrant for an [Official] Mission.***

1. In every prefecture, department, and district there will be [wooden] warrants to be used (*for arresting offenders or causing them to appear, and in expediting or supervising public matters*). [These] measure the distance of the place [of destination from the yamen] and set time limits for accomplishing the matter. When the matter is accomplished [the warrant] will be collected. Any violator (*this means an emissary who violates the [time] limits*) [will receive] 10 strokes of the light bamboo for [delay of] one day. For every [additional] day, add one degree. The maximum is 40 strokes of the light bamboo.

2. If a prefecture, department, or district official has a pressing matter to take care of, and does not act in accordance with the law in issuing and sending a warrant [to a subordinate], but goes (*himself*) to [a place] under his jurisdiction (*to remain*) there (*and to expedite*) and take care of it, he will receive 100 strokes of the heavy bamboo. (*The expression 'under his jurisdiction' means department, district, or village.*) Inspection of bridges, dikes, postal, and other relay stations, or the examination of the effects of calamities, inquests, pursuit of criminals, confiscation of property, and the like, are not included in this rule.

**Article 52. *Recommending an Inappropriate Person for Selection for Office.***

1. When anyone recommends for selection [for office] a person who is not [appropriate], or fails to recommend someone who has talents that are suitable for use at the time and who should be selected, (*calculate the number of those wrongly selected and those who are not selected*), he will, for one such person, receive 80 strokes of the heavy bamboo. For every two [additional] persons, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. If the person selected knows the circumstances, he will receive the same penalty. If he does not know, he will not be punished.

2. If the head of an office that examines for skills and abilities (*intentionally*) does not act in accordance with the facts (*those who [because of their abilities] are eligible to be chosen being placed on the bottom ranks, and those who [because of their lack of ability] are not eligible to be chosen, being placed on the top*), he will be punished [with the above penalty] reduced two degrees.

3. Those who are mistaken (*in nominating or examining*) will each be punished with [the above] penalty reduced three degrees. (*If consideration is received, decide the matter on the basis of [receiving consideration] and causing perversion of the law in the heavier degree [Art. 344].*)

**Article 53. *Selecting Officials Who Have Committed Offences.***

No yamen may propose or guarantee [for a post] in a misleading way any official or clerk who has been sentenced for an offence or removed from office or employment and who is ineligible for reappointment. If there is a violation [of this rule], the official proposing and the one who has hidden the offence will each receive 100 strokes of the heavy bamboo and be removed from office or employment and be ineligible for reappointment. (*If there is any receipt of consideration, both will be judged according to the law of [receiving consideration] and causing perversion of the law [Art. 344] according to the heavier punishment. If it is a case of a general of special capacity who has lost his commission and been removed from office, but not for corruption or to avoid the consequences of another action, if an officer having authority guarantees him and checks [the facts] and reports them clearly, he may still be proposed and employed.*)

**Article 54. *Leaving Official Employment Without Authority.***

1. Every official (*whether in the capital or out, civil or military*) or clerk (*chief clerk*) who, without reason (*he is ill or sent on an official mission*), and without authority, leaves his position or employment, will receive 40 strokes of the light bamboo. (*He will remain in office or retain his employment.*) If it is [a flight] to avoid a difficulty (*as, a flight to avoid the difficulty of delivering money or grain, or to avoid the difficulty of catching thieves or robbers*) and it is for this reason that he flees, he will receive 100 strokes of the heavy bamboo, and be removed from office or employment without the ability to be re-appointed. If the matter for which he left is more serious, in each case he will be sentenced according to the more serious punishment. (*For example, if a civil official who is accompanying the military to supply food and provisions avoids the difficulties [this entails] by fleeing, so that [the military force] is in want when it meets the enemy. [Art. 204]. Or a military official who has already received a*

*command flees to avoid the difficulties [this entails] and brings about military losses in operations [Art. 217]. If [the flight] is not to avoid [difficulties], but he abandons his seal en route, then he will merely be dismissed from office.)*

2. Anyone who is in an official position (*such as an official or clerk who keeps a lookout over the wind, or a fire watcher*) who is required to serve a tour of duty [in the day] and does not, or who is supposed to go on watch [at night] and does not, will, in each case, be punished with 20 strokes of the light bamboo. If a guardian ([including] *one who is on duty all year round*) of storehouses, work-places, prisons, or miscellaneous property, is required to take a tour of duty in the day and does not, or to stay at night and does not, he will receive 40 strokes of the light bamboo. (*This assumes that there is no loss or accident. If a person responsible for a food warehouse fails to take his day or night duty, and there is a loss from fire [Art. 136], if the granary janitor does not take the day or night watch, and there is a loss from theft [Art. 131], or if the jailer does not take his day or night watch and a prisoner escapes [Art. 392], or something of that kind [happens], in each case set the penalty in accordance with the special law applicable to that penalty.*)

#### Article 55. *Officials Who Exceed the Authorized Time for Reporting for Duty.*

1. Every official who has been appointed must report within the specified time. The time for those in the capital is computed from the day when the order of appointment is given. For those outside it is computed from the day of receipt of the documentary order (*delivered by the said Board [of Personnel]*) which specifies the delay. If he exceeds the time limit without cause, then for one day [in excess], he will receive ten strokes of the light bamboo; for each [additional] ten days, add one degree. The punishment is limited to 80 strokes of the heavy bamboo, and he will remain in office.

2. If the new official has already arrived, and the old one has, according to the established time limit, handed over [to his successor all of the records] of such matters as household registration, money and grain, and legal cases, and all of the required documents and records, and if, without reason, he does not leave the office for more than ten days [after that time], he will be punished according to the provision for exceeding the

authorized time for reporting for duty, reduced two degrees. (*He will remain in service.*)

3. If, while he is *en route*, he is hindered by winds [bad weather], thieves, or illness, or goes into mourning, so that he cannot proceed, he is permitted (*to report to*) the official within whose jurisdiction he is, who will give (*a sealed and certificated*) statement (*so that when, subsequently, the period for reporting is exceeded, he may give this statement to the official*) to examine [i.e. to serve as proof of his excuse for not reporting on time]. If there is any deceitful [report of] non-factual material in order to avoid the law, then he will be punished in accordance with the heavier penalty. As for the said official who assisted and served as guarantor, his penalty is the same.

#### Article 56. *Without Good Cause, Failing to Attend at Court or to Fill One's Official Post.*

Every great and lesser official who, without good cause, in the capital fails to attend at Court (*this provision does not speak of being at one's post to take care of his duties in the capital; [since] it is more serious not to appear at Court, [this provision] includes both*), or who, outside the capital, is not at his post to take care of his duties, or an official who is on leave which has expired, who without good cause does not return to his service, will for one day's [delay] receive 10 strokes of the light bamboo. For each three [additional] days, add one degree. Each penalty is limited to 80 strokes of the heavy bamboo, and [the official] remains in service.

#### Article 57. *Summoning Subordinates to Appear Without Authorization.*

All higher officials in calling a meeting on a public matter will prepare a statement (*in writing*) setting the (*time*) [for the matter to be concluded], and they will either send a [wooden] warrant or a person to [tell] the subject yamen to take measures (*and report on compliance*). If there is a delay or mistake, the penalty (*for the delay or mistake*) will be decided according to the law [Art. 29]. If [the official in a superior position] on his own [without authorization] calls a subordinate official or summons a chief clerk to come and work, or assigns jail wardens or chief officers of

the department or district [to perform services] so that they are prevented from doing their official work, (*the higher official*) will receive 40 strokes of the light bamboo. If the subordinate official accepts this [summons] and goes along with it, or sends a chief clerk to the higher office to work, the punishment is the same. If it is necessary to cause [such persons] to appear to confront someone in a criminal case, or to make an accounting of money and grain, or to supervise the carrying out of construction work, then it is permitted to summon [these persons] to appear. When the matter is finished, they should be immediately released. Where without good cause there is a delay of three days in releasing [an official], the punishment is 20 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 50 strokes of the light bamboo. (*'Summon [officials] to appear' means summoning someone to be questioned about some matter; it is not seizing him for prosecution for an offence. If an offence is investigated, then the Names and General Rules [Part of the Code] clearly provides that the higher official is not permitted to prosecute inferiors on his own authority [Art 6].*)

#### Article 58. *Illegal Cabals.*

1. In all cases when a wicked and evil person calumniates another (*who is not subject to the death penalty*) causing [the Emperor] to execute him (*not on the basis of proper reasons, but [because the calumniator] uses the pretext of other matters in order to enrage the Ruler to execute this man so as to achieve his own purposes, [the calumniator]*) will be beheaded (*with delay*).

2. If there is one who commits a crime and the law provides for the death sentence, and a high official or lesser official uses clever words in pleading [with the Emperor to have him] annul [the penalty], and to attract others to him (*trafficking in clemency in order to establish relations [with others]*), he will also be beheaded (*with delay*).

3. If officials of the Court form cabals to create chaotic conditions in the government of the Court, (*the officials of the cabal*) will all be beheaded (*with delay*), their wives and children will become slaves, and their property will be forfeit to the state.

4. Officials of the Board of Punishments and both great and small yamen who do not maintain the laws but listen and follow superiors (*i.e. immoral [corrupt] officials*) who command them to increase or decrease the penalty

of someone, will (*when the penalty of the prisoner has been executed or he has been released*) receive the same penalty. If there is one who does not yield to the force of power and clearly shows the facts and proofs, and himself goes to the Emperor, and, in following the rules, files an appeal, punish the immoral [corrupt] official. The complainant (*although he had listened to the suggestions of the [corrupt] official even to the point of causing punishment to be excessively or inadequately inflicted [or to have the prisoner released]*) will not be charged with this offence. Moreover, all the property of the guilty person will be divided (*or if there is only one who made the appeal then all [will be given] to him*) to constitute a reward. If [the one complaining] was an official, he will be raised two degrees. If he is not an official, give him an appropriate position, (*and if he does not wish to have a position*) then [give him] 2000 taels of silver as a reward.

#### Article 59. *Forming Relations with those Officials and Persons Who are Personal Attendants [of the Emperor].*

All officials of yamen, if they form connections with Court Officials or with personal attendants [of the Emperor] with whom they [mutually] leak (*secret*) affairs and, using influence, engage in intrigue and corrupt practices (*within and without the Court, they leak matters*), and together send in petitions (*in an effort to curry favour*), will all be beheaded (*with delay*) and their wives and children will be exiled to 2000 li to settle there. (*This is also an aspect of 'Illegal Cabals' [Art. 58], but leaking secrets is less serious than spreading disorder. Therefore his wife and children are merely sentenced to exile and settled there. His property is not confiscated. If it is merely a matter of relatives and friends coming and going [visiting], and there is no use of influence and similar intrigue and corruption, then do not use this law.*)

#### Article 60. *Speaking to the Emperor Regarding the Virtues and Good Deeds of Grand Ministers.*

If any official of a yamen or a member of the gentry or common person speaks to the Emperor about the admirable administration, talents, and virtues of a Grand Minister in office (*who is charged with maintaining*

state affairs)—if (it is not that he plans to be employed, then it is to repay some private obligation)—this amounts to an illegal cabal [Art. 58]. He must be put to the question, and interrogated thoroughly (about the reasons for this toadying to the Grand Minister), so that the background [of the matter] is made clear. The offender (if a group has spoken to the Emperor, then merely take the leader, and condemn him) will be sentenced to be beheaded (with delay) and his wife and children will become slaves. His property is forfeit to the state. If the Grand Minister in office knew of the circumstances, he will receive the same penalty. If he did not know, he is not condemned. (If the Grand Minister knew the circumstances, he receives the same punishment. This too will follow the Names and General Rules [Art. 6], and if this brings [the punishment] to the penalty of death, reduce it one degree, [to] 100 strokes of the heavy bamboo and exile to 3000 li. His wife, children, and property are not subject to levy and execution.)

## CHAPTER 2

### Official Rules [for Carrying on Public Administration]

#### Article 61. Explaining and Reading the Laws and Regulations.

1. All of the nation's laws and regulations analyse the seriousness of the facts and circumstances of offences and establish their names. They are published throughout the Empire. They must be eternally honoured and obeyed. The officials and clerks must read them so that they are familiar with them and are able to explain clearly the meaning of the laws in order to analyse and decide matters. At the end of every year both in the capital and outside, each of them will be examined and checked by his superior. If he cannot explain the law, and does not understand its meaning, then, if he is an official, he will be fined one month's pay. The clerks will receive 40 strokes of the light bamboo.

2. Persons such as workers and artisans of all sorts, who can read the laws and show familiarity with them and can explain and understand the meanings of the laws will, if they commit unintentional offences or if they are punished by implication because of another [person's act], regardless of whether it is a serious or light [matter], avoid punishment the first time. If the offence is a matter of rebellion, treason, or high treason, do not use this law.

3. If an official or clerk uses fraud to cheat the government, unjustifiably giving a different meaning [to the law], or, without authority changes the law and causes confusion in the established law (that is, the laws and regulations) he will be beheaded (with delay).

#### Article 62. Violation of a Written Imperial Order.

(The words of the Son of Heaven are an order. The writing then records these words. For example, a proclamation, amnesty, notification [yü], or decree. If [an official] requests permission to take some action, the case is not within this article.)

1. Anyone who receives a written imperial order with directions to perform some act, and who (*intentionally*) violates it (*does not carry it out*) will receive 100 strokes of the heavy bamboo. If he violates the order of the heir apparent, the punishment is the same. If he mistakes as to the meaning of the order, [the punishment] will be reduced three degrees.

2. If he delays and does not transmit [within the prescribed period] the imperial order or the order of the heir apparent, for one day's delay, the punishment is 50 strokes of the light bamboo. For each [additional] day add one degree. The punishment is limited to 100 strokes of the heavy bamboo.

**Article 63. Discarding or Destroying a Written Imperial Order or a Seal.**

1. Everyone who (*intentionally*) discards or destroys a written imperial order, or the seal of any yamen, will be beheaded (*with delay*). If he discards or destroys an official document, he will receive 100 strokes of the heavy bamboo. If this is done in order to avoid the effects of some rule, it will be punished according to the [law with the] heavier penalty. If it is a matter of military operations, funds, or provisions, he will be strangled (*with delay. As for the matter of 'military operations', it is feared there may be a loss therefore, even though [the matter does not involve] funds or provisions, the penalty is strangulation. If there is a fraudulent taking of funds and provisions, or the discarding or destruction is with the desire to avoid the effects of some rule, the result will be that the [army] will run out of supplies in facing the enemy. Therefore the penalty is also of the same degree.*) If an official or clerk knew the facts and did not make a report, the penalty is the same as that of the offender. (*If the penalty is death, reduce one degree.*) If he does not know, he is not punished. In the case of mistaken destruction [of the document], each penalty is reduced three degrees. If there is clear proof that the destruction or loss is the result of fire, water, or theft, there is no penalty.

2. One who loses a written imperial order, an imperial rescript, or a seal will receive 90 strokes of the heavy bamboo and penal servitude of two and a half years. If it is an official document [other than an imperial document], the penalty is 70 strokes of the heavy bamboo. If the matter is one of military operations, funds, or provisions, the penalty is 90 strokes of the heavy bamboo and penal servitude of two and a half years. In all

cases his salary will be withheld, and he will be ordered to search [for the lost document]. If he finds it within 30 days, he will escape punishment. (*If he does not find it within this limit, he will be subject to punishment according to the above provisions.*)

3. If a guardian of government property loses a register, causing confusion and error as to the quantities of money and grain, he will receive 80 strokes of the heavy bamboo. (*His salary will be withheld, but he is ordered to search for it.*) If he finds it within the time limit, he avoids punishment.

4. When the term of a yamen chief clerk has expired, and he has been replaced, he will prepare a report and transfer the original documents that were under his control to his successor. If he violates [this provision] (*and does not prepare the report and make the transfer*), then he (*the former clerk*) will receive 80 strokes of the heavy bamboo. If the chief officer and clerk do not wait for the (*chief clerk*) to carry out [the formalities of] transfer, but together deliver the certificates (*of leaving service*) the offence is also like this.

**Article 64. Contravening Prohibitions [in Mentioning Words that Ought not to be Mentioned] in Written Communications to the Emperor.**

1. In every written communication to the Emperor, if there is a violation of the prohibition against mentioning the imperial name or the name of a deceased ancestor, the punishment is 80 strokes of the heavy bamboo. If the same error is committed in another writing, the penalty is 40 strokes of the light bamboo. If this word is used as a [personal] name and thus constitutes an offence (*this does not refer to something momentary, but to using it as a name that others use to call one by*), the penalty is 100 strokes of the heavy bamboo. If the offence [against the prohibition of the use of the] imperial name or that of the deceased ancestor consists in using [a character whose] sound is similar but whose form is different, or if there are two characters [to the imperial name] and one is used, there is, in both cases, no punishment.

2. If, in a writing or a communication to the Emperor, there is an error, as, if it is intended to say 'pardon' but what is said is 'do not pardon' (*extreme opposites*), what is meant to be said is 1000 piculs and what is said is 10 piculs (*which is quite removed in meaning*), and if there is injury

as a result, the penalty is 60 strokes of the heavy bamboo. If a petition is made to one of the Six Boards and there is an error and harm results, the punishment is 40 strokes of the light bamboo. If there is a mistake in a writing to another yamen, the punishment is 20 strokes of the light bamboo. If, although there is a mistake in the petition, still the document can be acted upon and no harm is caused, there is no punishment.

**Article 65. Cases in Which it is Necessary to Memorialize the Emperor and He is not Memorialized.**

1. In all cases when those who are deserving of consideration commit offences [Art. 3], when it is necessary to petition for a rescript and no petition is submitted, or it is necessary to consider merit [in a case] and present a report of the same to the Emperor and the report is not made, ([but the official] *instead himself arrests, interrogates, and decides the case*), the said official (*according to the law of Miscellaneous Offences*) will be strangled.

2. If a civil or military official on duty commits an offence, and it is necessary to memorialize [requesting instructions, Art. 6], but no [memorial] is submitted, the punishment is 100 strokes of the heavy bamboo. If there is an effort to avoid the effect of a rule (*as where there is animosity and [the official] intentionally carries out his examination [and reports on the case] so as to increase or decrease a penalty*), he will be sentenced to [the penalty for] the more serious offence.

3. If it is a military matter, or one involving money or grain, the manner of selection [of officials], the system [of administration], or a legal matter, or the death penalty, or a natural disaster, or [other] matters concerning which a memorial must be sent to the Emperor, but the memorial is not [sent], the punishment is 80 strokes of the heavy bamboo. If it is necessary to petition a superior authority and no [petition] is made, the punishment is 40 strokes of the light bamboo.

4. If (*a person who is entitled to consideration [Art. 3] or a military or civil official commits an offence, or it is a military matter*), and a petition is made to the Emperor or superior authority, but the petitioner did not await the reply and at once carried out the sentence, the penalty is the same as if he did not petition the Emperor or the higher official. (*If [the punishment] extends to death, reduce it one degree.*)

5. Whenever (*a yamen*) must memorialize as to a public matter, [the

responsible official] must, according to law, prepare a draft decision ([giving] *the name of the offence*) and put it in writing and memorialize it. The petitioner and the officials and clerks who prepared it must sign it with their names. (*At present the clerk does not sign his name.*) The memorial must inform clearly. If (*the officials or clerks*), in an effort to escape the effects of a rule, (*in the body of the petition*) increase or decrease the seriousness of some key circumstance, or the memorial is written misleadingly and approval is obtained (if [the sentence] *has not been carried out, there will be a judgment according to the article on writing a memorial about things that are not true* [Art. 357]), and if the matter is revealed after execution, although many years have passed, [those who signed the petition] will be put to the question to explain matters and will be beheaded (*with delay. If it is not a military matter, nor a matter of money or grain, consider the seriousness of the matter and reduce the penalty.*)

6. When a report is made to the superior under whose supervision the one making the report is directly placed and [the report] contains a discussion of a public matter, the facts must first be set out clearly [in detail. It must also set out] whether the matter can be carried out or not, and a proposed decision must be placed in the report. If the proposal is approved, (*only then can the matter be carried out*). The superior official will sign and seal the document and attach a short written statement (*of the matters being considered*) [containing] the general points and reasons [for his action], and order the chief officer and the clerks to sign their names to [this document to] serve as the basis [for a later] investigation. If there is a matter that should not be carried out (*it has not been reported to the superior official*), but it is falsely [claimed] that a petition was made and permission obtained, or if someone spies on a (*superior who is*) very occupied in public matters and takes advantage of this to make a misleading report (*so that the official cannot verify it carefully and erroneously gives his permission*), the one acting will be punished in accordance with the law of falsely transmitting the orders of officials of a yamen [Art. 356]. If there is an effort to avoid the effects of a rule, then sentence for the more serious [offence]. (*The offences of falsely [changing and] transmitting the orders of officials are carefully set out in 'The Law of Falsity.'* [Arts. 355-65])

**Article 66. To be Sent on a Mission and not to Return the Order.**

1. All who receive an imperial order to go on a mission and (*the mission being completed*) do not return to make a report, but interfere with other

matters (*which have no relation with the assigned mission*), will receive 100 strokes of the heavy bamboo. Every [official of a] yamen who goes on a mission ([from the yamen] *on the basis of an endorsed imperial order received* [by the yamen] *who, when the mission is completed*) does not return and report, but interferes in some other matter, will (*if the matter interfered with*) is something ordinary, receive 70 strokes of the heavy bamboo. If it is an important military matter, he will receive 100 strokes of the heavy bamboo. If (*while the mission has not been completed*) he exceeds his mission (*does something which the mission does not call for*), or exceeds his powers (*does something his position does not permit him to do*) and interferes in the work of another by taking over his duties in order to do something, he will receive 50 strokes of the light bamboo.

2. If, after returning, he does not return the imperial rescript (*the decree*) within three days, he will receive 60 strokes of the heavy bamboo. For each two [additional] days add one degree. The punishment is limited to 100 strokes of the heavy bamboo. When he does not return the symbol of authority, he will receive 40 strokes of the light bamboo. For every three [additional] days, add one degree. The punishment is limited to 80 strokes of the heavy bamboo.

3. If (*either in the case of the one being sent out on the mission having carried it out improperly or the imperial decree and symbol of authority being lost or injured*) there is an intention to avoid the effects of a rule (*and he does not return the order or surrender* [the imperial rescript]), sentence according to [the penalty] for the more serious [offence].

#### Article 67. *Delays in Forwarding Official Documents.*

1. In the case of every official document [whose forwarding] is delayed, for one day, a chief clerk will receive 10 strokes of the light bamboo. For three [additional] days add one degree. The punishment is limited to 40 strokes of the light bamboo. The penalty of the chief officer will be reduced one degree. (*The chief officer is the chief clerk's chief. Whenever the law speaks of the chief officer, the head official and assistant officer are not punished.*)

2. When a yamen (*a superior office*) receives a petition from a subordinate [office] for action on a public matter, there should be prompt consideration. Whether [the action] can be taken or not, the matter must be clearly decided (*the document will be endorsed*) and a reply made to the

subordinate. If the said (*superior*) officials and clerks do not decide the matter with certainty but confusedly transmit it, (*or the superior and inferior offices*) mutually shift it around so that there are delays in public matters, (*the superior official or clerk*) will receive 80 strokes of the heavy bamboo. When an (*inferior*) who is subject to [a superior] does not take care of a matter over which he has competence but (*where there are no doubts*) raises doubts in a report, (*the inferior official or clerk*) is guilty of the same offence.

#### Article 68. *Inspection of Records.*

1. In all inspections of sealed official documents of yamen, if there is a delay [as to] one or two rolls ([whose inspection] *could be finished but is not*), the chief clerk will receive ten strokes of the light bamboo. For three to five [additional documents], 20 strokes of the light bamboo. For every [additional] five, add one degree. The punishment is limited to 40 strokes of the light bamboo. The chief officers of prefectures, departments or districts, or the officers in charge of granaries and treasuries, [tax receipt] offices, [salt or other] works, government manufacturing units or agencies, or those charged with river and lake affairs (*these are not like chief clerks*) will each receive this punishment reduced one degree.

2. In the case of every error (*failing to apply the seal, not affixing signatures, etc.*) or omission in making reports (*there are many files of documents and some are not presented for inspection*), for one roll, a chief clerk will receive 20 strokes of the light bamboo. For two or three [additional rules, he will receive] 30 strokes of the light bamboo. For every [additional] three rolls, add one degree. The punishment is limited to 50 strokes of the light bamboo. The chief officer of a prefecture, department, or district, as well as an officer in charge of granaries and treasuries, [tax receipt] offices, [salt or other] works, government manufacturing units or agencies, or those in charge of river and lake affairs, will each be reduced one degree. As for the official in charge in the prefecture, department, or district, and the sub-district magistrate (*who are not like chief officers*), for one to five [additional] rolls, fine one month's salary, for every five rolls, add one degree. The punishment is limited to three months' [salary].

3. If (*the inspection of the records reveals that*) there is a concealing of money or grain, or that a legal matter has been handled incorrectly, if this has been done with the intention of avoiding [the effects of a] rule, the matter will be punished according to the more serious offence.

**Article 69. Review and Revision of Documents.**

1. In every case of review and revision (*by the Records Office*) of documents that have not been completed by each yamen and which the provincial administrative commission and the surveillance commission have already inspected [and in which] they have detected delays and errors, if, after one season [three months] has passed, sufficient money and grain have not been levied and the deficiencies been completely made up, the supervisory officials and clerks (*charged with the seal*) will be punished. Taking the [total] deficiency as ten portions, then for one portion [that is not made up] award 50 strokes of the light bamboo, and for each [additional] portion add one degree. The punishment is limited to 100 strokes of the heavy bamboo. If there is a case which is to be decided or construction works which can be finished and the matter is not completed, or a matter which must be corrected and it is not corrected, (*when one season has passed*) punish with 40 strokes of the light bamboo. For each [additional] month, add one degree. The punishment is limited to 80 strokes of the heavy bamboo. If there is receipt of consideration, compute the amount and punish on the basis of [receiving consideration] and causing perversion of the law [Art. 344] according to the heavier penalty.

2. Those who hide or misplace (*the records that have already been inspected*) and do not present them for review, revision, and inspection will, for one roll, receive 40 strokes of the light bamboo. For each [additional] roll, add one degree. The punishment is limited to 80 strokes of the heavy bamboo. If the matter is one involving money or grain, for one roll, the punishment is 80 strokes of the heavy bamboo. For each [additional] roll, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. If there is an effort to avoid [the effect of] the rules, decide the matter according to the heavier penalty.

3. If an official (*in the case where, among the documents, there is a [matter that] is delayed and not completed, or where there is an error that has not been corrected*) hears that the matter has come to light, (*and that [the document] will be examined*), and quickly takes care of it (*if it is not finished, he fabricates it [to look] as if it had already been completed; if it had not been corrected, he makes it look as if it had been corrected*) in order to avoid the consequences of delay or error, in the case of money or grain, compute the amount of the increase [he made in the document] and decide the matter on the basis of issuing false statements [and partial receipts, Art. 123.] In the case of [errors in] legal or other matters, decide it on the basis of adding to or subtracting from official documents [Art.

71]. If an officer who is in the same service as this official, or his superior who knows the circumstances, does not report, or, together [with the offender], (*quickly takes care of the matter*) and falsifies [the document], he receives the same penalty. If he does not know the circumstances, or did not sign his name to the document, he is not prosecuted.

**Article 70. Officials in the Same Office Deciding [a Matter] and Signing a Document for Another.**

In every case in which it is necessary to transmit (*either to a superior or an inferior*) an official document, and an official in the same office acts for another in deciding (*affixing the date* [of the decision]) and signing (*a name or a mark*), he will receive 80 strokes of the heavy bamboo. If, because there is a loss of a document (*which has already passed through the hands of persons in the same office*), one [official] acts for another (*he prepares a document to replace the missing one*), the punishment will be increased one degree. If (*the facts in a case*) are added to or taken away from, and the penalty for the offence of decreasing or increasing a penalty improperly [Art. 409] is more severe, then sentence to the heavier penalty.

**Article 71. Adding to or Subtracting from an Official Document.**

1. In every case of adding to or subtracting from an official document (*the contents, characters, etc.*) the punishment will be 60 strokes of the heavy bamboo. If it is in an effort to avoid [the effects] of a rule (*that the addition or subtraction is made*), if the penalty is beating with the heavy bamboo or above (*up to penal servitude and exile*), then in each case add to the punishment (*for the rule which he is avoiding*) two degrees. The punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li. If the [act provided for in the document] has not been carried out (*in adding to the punishment*), reduce one degree [i.e. a net increase of only one degree]. If the penalty which was sought to be avoided was death, punish according to the usual law. If the official or clerk (*committed offences*) which he himself is attempting to avoid the penalty for, and he adds to or subtracts from the file (*as originally prepared*), his punishment

is the same (*as that which he sought to avoid*). Those who make additions or subtractions in order to avoid the consequences of errors or delays will be punished with 40 blows of the light bamboo.

2. If, in sending official documents, one [who copies the documents] has made an error in words regarding an important matter such as troops, money, grain, or legal matters, and erases them and corrects them, the chief clerk will be punished with 30 strokes of the light bamboo. The chief officer who has failed to check [properly will receive the same punishment] reduced one degree. (*If the erasure and correction*) hinder the movement of troops and the supplying of military requirements of funds and supplies on the frontier, the chief officer and the chief clerk will both receive 80 strokes of the heavy bamboo. If, in order to avoid [the effects of a] rule, someone intentionally changes and fills in [the document], sentence on the basis of adding to or subtracting from an official document [part one of this Article]. (*In each case add two degrees to their punishments.*) If the matter has not yet been carried out, then in each case (*in adding to the penalty for avoidance of the rule*) reduce it one degree. (*If because of the change and filling in, the official in charge of the matter has doubts as to what he must forward, and the transfer of troops is insufficient or the supply of funds and provisions is inadequate*) and there are in consequence errors in military operations, then it does not matter if the act was intentional or unintentional. The punishment will be beheading (*with delay. The said clerk is the principal. The chief officer and the communications clerk will receive 100 strokes of the heavy bamboo and exile to 3000 li.*) If (*it is not a document that deals with troops, money, grain, or a legal matter, etc. and*) there is no avoidance of the rules, but unimportant words happen to be written wrongly, there is no punishment.

#### Article 72. *The Affixing and Custody of Seals.*

The head official will guard the seal in [all] yamen both in the Capital and outside. The assistant official in the same office will place paper on the seal to cover and seal it and both will sign their names on the paper. If the assistant official in the same office is away on a (*public matter*) or there is an accident, the chief officer is permitted to [cover] the seal [with paper] and seal it. Any violation will be punished with 100 strokes of the heavy bamboo.

#### Article 73. *Failing to Affix a Seal.*

1. In every case where a yamen transmits an official document outside [the office] and [partially] neglects to affix a seal, the chief clerk who manages the matter and the chief officer [who reviews it] and the communications staff member [who transmits it] will each receive 60 strokes of the heavy bamboo.

2. Those who completely fail to use the seal will each receive 80 strokes of the heavy bamboo.

3. (*If the partial or complete omission of the seal is on a public document so that* [the omission]) hinders the movement of troops or the supply of funds and provisions needed by the troops on the frontier, each will receive 100 strokes of the heavy bamboo. If because (*of the partial or total failure as to the seal, the dispatcher of the office in authority is suspicious and does not quickly transfer the provisions*) and there are losses in military operations, each will be beheaded (*with delay. Also, take the said clerk in charge of the matter as the principal. The superior chief officer and the communications staff member will merely be sentenced to 100 strokes of the heavy bamboo and exile to 3000 li. If there is reversal in the use of the seal* [top to bottom], *sentence to the penalty for* [partial] *failure to use the seal of 60 strokes of the heavy bamboo.*)

#### Article 74. *Unauthorized Use of the Seal Designed for Military Orders.*

Whenever a military commandant or the area military commandant or the regional military commander uses a seal, and except in the cases of troop movements, managing military affairs, or transmitting official documents, he, without authority issues endorsed documents [to which he applies the seal], falsely using [the form for] public matters to take care of private affairs, (*and prepares a pass*) to show (*the control post*) when sending goods (*in order to avoid taxes*), the chief officers and the chief clerks will each receive 100 strokes of the heavy bamboo and will be removed from service or employment and will not be reappointed (*as a penalty for not having been* [able] *to report and prevent this*). The case of the head official will be sent to the Emperor for consideration.

PART III  
[Laws Relating to]  
*The Board of Revenue*

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## CHAPTER I

### *Households and Services [Corvée Labour]*

**Article 75.** *Omission of Households or Members of a Household [from Registration].*

1. In the case of every household (*that is to say, family*) which is completely unregistered, (*if*) there is (*land which must contribute to*) land taxes and services [corvée labour], the head of the household will receive 100 strokes of the heavy bamboo. (*If there is*) no land tax (*the land is not subject to tax*) and there is no liability for services, he will receive 80 strokes of the heavy bamboo. (*It is permitted*) that the registration be accomplished. (*If there is a land tax, then the tax will be paid accordingly. If none,*) then services will be performed (*according to [the number of] adult males [between 16 and 60].*)

2. If [a head of a household] hides a person from another (*household*) in his own household and does not (*separately*) report it (*and register him*), or there is mutual falsification so that the households are registered as one household, (*if the other household*) owes land taxes, or services are due, (*the head of the principal household*) will receive 100 strokes of the heavy bamboo. If there is no land tax or service due, he will receive 80 strokes of the heavy bamboo. If [a household head] hides in his household a (*paternal or maternal*) relative who lives in a different household and does not report this, or if there is mutual falsification so that they [the two related households] are registered as the same household, in each case the punishment will be reduced two degrees. The persons concealed will receive the same penalty. The household [registration] will be corrected and a different registration for the performance of services will be properly made. The older and younger brothers of one's father, younger brothers, sons of brothers, and sons-in-law of the same clan who have not formed separate households do not come within this provision (*of adjudging the punishment and correcting the registration*).

3. If there is one who is performing a service in the government, then, although he has failed to register his household, (*since he himself is doing service and his name is listed with the government officials*), he is to be adjudged merely according to the law of omitting some members [of one's family. See below.]

4. In the case of (*a household that has already registered*) where there is concealment of its own adult male family members (*those 16 or above*) and a failure to register them, or an addition to or a decrease in their age, or where they are made [to appear] falsely to be old or young, or seriously disabled, in order to avoid compulsory service, then for one to three such persons, the household head will receive 60 strokes of the heavy bamboo. For three [additional] persons, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. In the case of those who have not yet become adults, for from three to five such persons, give 40 strokes of the light bamboo, and for each five [additional] persons, add one degree, with a limit of 70 strokes of the heavy bamboo. (*The hidden persons*) will be registered, and (*those who have become adults*) will perform their service.

5. If one hides an adult male of another household so that he is not registered, [the head of the household] will be punished in the same way. The person hidden receives the same punishment and is returned to his own household to be registered and to perform service.

6. If the community head fails to investigate and obtain information, and as a result households are omitted, then [for the omission of] from one household to five households, he will receive 50 strokes of the light bamboo. For each [additional] five, add one degree, with a limit of 100 strokes of the heavy bamboo. As for omitted individuals, for from one to ten persons, give 30 strokes of the light bamboo. For every [additional] ten, add one degree, with a limit of 50 strokes of the light bamboo. If there is an omission of households (*resulting from their failure to verify the matter*), the district supervisory official in charge and the chief officer and staff will, for ten households, receive 40 strokes of the light bamboo. For every ten [additional] households add one degree, with a maximum of 80 strokes of the heavy bamboo. As for missing individuals, for each ten of them, give 20 strokes of the light bamboo. For each [additional] 30, add one degree to a maximum of 40 strokes of the light bamboo. If [the missing individuals] knew the circumstances, then they will be punished in the same manner as the offender. If they received consideration, compute the amount, and sentence on the basis of [receiving consideration and] causing perversion of the law according to the more serious offences [Art. 344]. If the officials and clerks have already set up investigations three times and have already ordered the community head to prepare a written report, and repeatedly told him to do this, and this situation arises, then [only] the community head will be punished. (*If the community head and the officials and clerks knew of the circumstances of this omission and intentionally overlooked*

*it and did not investigate, then the community head and the officials and clerks will receive the same punishment as the person left out of the registration. If there is any receipt of money or property, then the amount is computed and [the offender is sentenced] on the basis of [receiving consideration] and causing perversion of the law, increased in severity [Art. 344].)*

**Article 76.** [The Classification of] *Individuals and Households is Established According to the Registration.*

1. [The classification of] all manner of persons and households, whether they are military people, civilians, postcouriers, salt-workers, physicians, diviners, artisans, musicians, or any sort of person and household, is established according to the (*original book of*) registration. If someone deceitfully claims (*to be a civilian instead of a military person*), falsely claims (*to be a civilian*) to avoid service (*as an artisan*), or to escape from his own heavier obligation and assume (*another's*) lighter obligation, he will be punished with 80 strokes of the heavy bamboo. If the authorities improperly permit this omission and avoidance, and change and confuse the published register (*as by changing a military person into a civilian or changing a civilian into an artisan*), the punishment is the same. (*The military, civilians, etc. will [have their classifications] corrected and will perform services.*)

2. If there is one who falsely states that he is a soldier on duty at one of the various garrisons and he does not perform either military or civilian service, he will receive 100 strokes of the heavy bamboo and be sent to the distant frontier in military exile.

**Article 77.** *Privately Establishing a Buddhist or Taoist Convent and Ordaining Taoist or Buddhist Priests.*

1. Apart from presently existing Buddhist and Taoist temples and convents (*the number fixed in former years*), it is not permitted [to any one] on his own without authorization to construct or add to [such establishments]. A violation is punished with 100 strokes of the heavy bamboo. The Buddhist and Taoist priests will be defrocked and sent in military exile to the distant frontier. Buddhist and Taoist nuns will become government

slaves. (*The land, [buildings], and other properties will be forfeited to the government.*)

2. If the Buddhist or Taoist priest has not been given a licence, but privately himself put up his hair or shaved his head [and thus entered the priesthood], he will receive 80 strokes of the heavy bamboo. If this was initiated by the head of his household, then that household head will be punished [instead]. The abbot of the Buddhist or Taoist temple, or the one who is in charge of instructing apprentices, who privately ordains [priests], will receive the same punishment, and moreover, he will be defrocked (*and will be entered on the registry and perform services*).

**Article 78. Establishing a Son of the Official Wife [as One's Successor] Contrary to the Law.**

1. Everyone who in regard to establishing the son of his official wife [as his successor] acts contrary to the law will receive 80 strokes of the heavy bamboo. If his official wife is over 50 and has no son, he may establish the eldest son of his concubine(s) [as his successor]. If he does not establish the eldest son [as his successor], the punishment is the same (*and both [acts] will be corrected*).

2. If someone adopts a person of the same clan as a son, and the adopting parents have no son, (*and the natural parents have sons*) and he [the adopted son] forsakes [the adoptive parents], he will receive 100 strokes of the heavy bamboo and will be returned to the control of the adoptive parents. If (*the adoptive parents*) have sons born to them, and the natural parents have no other son, and he wishes to return (*to them*), he should be permitted to do so.

3. If someone adopts a son of a different surname, thereby causing confusion in the clan, he will receive 60 strokes of the heavy bamboo. If one gives a son to a family with a different surname to be a successor, the punishment is the same. This son will return to his clan.

4. An abandoned child of under three, even though he is of a different surname, may be adopted. He will take the name of the adopter (*but he may not be established as a successor on the basis that [the adopter] has no sons*).

5. If one establishes a successor, and although it is someone of the same clan, [the one adopted] is not within the proper senior or inferior degree of relationship [e.g. a paternal first cousin who would be in the

same relation to the common ancestor as the adopter and hence is not in the proper generation to be a son], the punishment is the same. This son will return to his clan. A person who is suitable to succeed will be established [as the successor].

6. If, in the household of an ordinary person, there is the adoption (*of boys and girls from honourable persons' households as slaves*), the punishment is 100 strokes of the heavy bamboo. Those [who have been enslaved] will be released and returned to the [status] of honourable persons.

**Article 79. Receiving and Retaining Lost or Stray Male or Female Children.**

1. Everyone who receives and retains (*an honourable*) family's lost or stray children of either sex (*who lose their way or have strayed from their native place*) and does not send them to the authorities, but sells them as slaves, will receive 100 strokes of the heavy bamboo and be sentenced to penal servitude of three years. If he [sells] them as wives or concubines, or as sons or sons' sons, he will receive 90 strokes of the heavy bamboo and penal servitude of two and a half years. If he receives a lost or strayed male or female slave and sells him or her, then the penalty will be that for an honourable person [who is sold] reduced by one degree. The one sold will not be punished, but will be returned to his family.

2. If someone receives and retains a child of either sex who has run away (*and does not send him to the authorities*) and sells him or her as a slave, he will receive 90 strokes of the heavy bamboo and penal servitude of two and a half years. If he [sells] her or him as a wife or concubine, or as a son or sons' son, he will receive 90 strokes of the heavy bamboo and penal servitude of two years. If he obtained a slave who has run away and sells him or her, he will receive the penalty for [receiving and selling] an honourable person reduced one degree. The runaways who are sold will each be punished one further degree less. If there is a heavier penalty for the running away, then the heavier punishment will be applied.

3. As for the one who has received and kept such a person to make him or her a slave, wife, concubine, son, or sons' son [for himself], the punishment will be the same. If he (*temporarily*) hides him or her in his household (*and does not send him to the authorities*), he will receive 80 strokes of the heavy bamboo.

4. If the buyer and the broker know the circumstances, reduce the

punishment of the offender [seller] by one degree, and return the price to the government. If they do not know the circumstances, they will not be punished and the price will be returned to the owner.

5. If someone falsely claims an honourable person to be a slave, then he will receive 100 strokes of the heavy bamboo and penal servitude of three years. If he makes the person his wife or concubine, or his son, or sons' son, then he receives 90 strokes of the heavy bamboo and penal servitude of two and a half years. If someone falsely claims another man's slaves [as his own], the penalty is 100 strokes of the heavy bamboo.

**Article 80. *Inequality of Land Taxes or Services. (Land Taxes [fu] are Obtained from the Produce of the Soil; Services are Performed by Adult Males.)***

Every [official and clerk] who has the authority for assessing and collecting the grain taxes and miscellaneous labour services will investigate within the register the number of persons in the household and the production of the soil [of each family] and establish (*upper, middle, and lower*) degrees and set [the tax and services]. If the rich are released and the poor have to pay taxes and perform services, or there is corruption in changing (*the degrees*), the poor man who has been injured is permitted to petition to the said official's superior in accordance with the normal chain of command. The said officials and clerks will each receive 100 strokes of the heavy bamboo (*and [the record] will be corrected*). If the superior official [refuses to] receive the appeal, he will receive 80 strokes of the heavy bamboo. If there is receipt of consideration (*both the official and the superiors are referred to*), then compute the amount, and sentence on the basis of [receiving consideration] and causing perversion in the law according to the heavier penalty [Art. 344].

**Article 81. *The Unjust [Assignment] of Services to Adult Males.***

1. [If the assignment of work to] all those adult males who are required to perform services and various sorts of artisans (*who are performing any kind of government work*) is not just (*whether as to the difficulty of the work or the free time*), then for each person [who is given work unjustly, the one who assigned the work will receive] 20 strokes of

the light bamboo. For every five [additional] persons, add one degree. The punishment is limited to 60 strokes of the heavy bamboo.

2. If any adult male or artisan, when assigned to any form of labour service, delays in performing the assignment, or if the officer in charge does not let him go when his service is fulfilled, then, for one day, the punishment is 10 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 50 strokes of the light bamboo.

**Article 82. *Hiding [Persons] from Compulsory Service.***

1. In all cases where persons of influence (*powerful households, do not supply the salary and keep* [for the workers who will be hired to perform compulsory service in the place of family members]) and have their sons, sons' sons, younger brothers, and brothers' sons accompany officials and thus hide them from performing compulsory services, the household head will be punished with 100 strokes of the heavy bamboo. As for the official who permits this, his punishment is the same. If he has received consideration, then compute the amount and sentence on the basis of [receiving consideration and] causing perversion in the law [Art. 344], according to the heavier penalty. The person who accompanied [the official] will avoid the punishment (*of beating with the heavy bamboo*) and be sentenced to military exile (*to the near frontier*).

2. If it is a meritorious official who permits the concealment, a provisional sentence will be prepared in accordance with the law [Art. 3], and a memorial will be sent to the Emperor requesting a decision.

**Article 83. *Prohibition Against [Improper Creation of Community Heads] and Dismissal of Heads of Bao.***

1. In every populated location, for every hundred households, one community head and ten tithing chiefs will be chosen by discussion [among the villagers] to serve for one year to supervise the collection of money and grain [taxes] and assist in [taking care of] public functions. If there is one who falsely calls himself a Head of a *Bao* or the junior head of the community or a *Bao Zhang* or a *Zhu shou* (*the senior tithing chief*) or the like, who does something that annoys and harasses the people, he will receive

100 strokes of the heavy bamboo and transportation (*this is reduced one half from exile and is the equivalent of two years of penal servitude. If there are no disturbances of the people, he cannot be sentenced to transportation.*)

2. As to the appointment of the village elders, it is permitted to select them from among the inhabitants in the village who are elderly and virtuous and who are trusted by the villagers. It is not permitted to select a person who is a retired or dismissed clerk or runner, or a person who has been convicted of an offence, to do this work. A violation is punished with 60 strokes of the heavy bamboo (*and dismissal*). The said official or clerk [who supervises and selects wrongly] will receive 40 strokes of the light bamboo. (*If there is receipt of consideration that causes perversion in the law then punish him according to the heavier penalty* [Art. 344].)

#### Article 84. *Fleeing to Avoid Compulsory Service.*

1. In the case of households that flee in order to live in a neighbouring department or district and avoid performing compulsory services, the punishment will be 100 strokes of the heavy bamboo, and they will be returned to the original place of registration to perform services. As for the community head who has jurisdiction, the supervisory officials and clerks who intentionally permit this, and the neighbouring households that hide them among themselves, the punishment is the same. If (*the neighbouring*) community head knows the circumstances and does not send them home, or the original official having jurisdiction does not send a request to have them picked up or if he sends the request to have them picked up, and the official in whose jurisdiction they live keeps them and does not return them, each will receive 60 strokes of the heavy bamboo.

2. If the adult males, as well as various sorts of artisans who are performing compulsory services, or the households of labourers and musicians, etc. (*that is to say, postal-relay station workers, salt-workers, physicians, diviners, etc.*) run away, then, for one day, the punishment is 10 strokes of the light bamboo. For every [additional] five days, add one degree. The punishment is limited to 50 strokes of the light bamboo. If the supervisory official or clerk intentionally releases [them], he will receive the same punishment. If he receives consideration, compute the amount and decide the case on the basis of [receiving consideration and] causing perversion in the law and punish him according to the heavier penalty

[Art. 344]. If he does not know they have run away, for five persons, the penalty is 20 strokes of the light bamboo. For every five [additional] persons, add one degree. The punishment is limited to 40 strokes of the light bamboo. If the omissions do not amount to five persons, then there is no penalty. (*The above mentioned [offence of] fleeing to the neighbouring territory refers to avoiding completely the performance of compulsory service. Therefore the punishment is heavy. As for those who flee while they are performing compulsory services, they are still [registered] and have been performing services. Therefore the penalty is light.*)

#### Article 85. *Appointment of Persons to Serve as Jail Guards.*

All jail guards everywhere will be appointed from among those who are experienced and familiar [with the situation so as to be able] to perform necessary services. If [one so appointed] gets another to serve in his place, he will receive 40 strokes of the light bamboo.

#### Article 86. [An Official Overseer] *Privately Ordering Persons [Serving] Under Him to Perform Skilled or Unskilled Labour.*

As to all responsible officials who privately give orders to persons under them to perform private services, as well as to all overseers of works who for their own use give orders to artisans to perform private services, when they [the workers] either go farther than 100 *li* or are kept for a long time in [the officials' and overseers'] households serving at their call, (*the responsible official who gives the order*) will receive 40 strokes of the light bamboo for one such person. For every five [additional] persons, add one degree. The punishment is limited to 80 strokes of the heavy bamboo. (*For the overseer in charge of works, there will be added for the persons so employed two degrees [because] the use [of workmen] for private service is the minor offence. To interfere with public works is the major offence.*) Compute the number of days of such service for each individual who performs such service and [cause] the restitution of wages in the amount of 8 *fen*, 5 *li*, 5 *hao* [0.0855 taels per day]. If there are occasions of festivity or mourning, and in the house [of the official] there is such use of miscellaneous services, do not punish (*though the overseer of works is still*

*punished*). The number of persons so used in service may not exceed 50. Moreover, those who serve may not do so for more than three days. A violation will be punished as privately ordering [persons to perform] services [above].

**Article 87. Establishing Separate Household Registration and Dividing [the Family] Property.**

(*Note: this is one of the Ten Great Wrongs—lack of filial piety [Art. 2]*).

In every case where paternal grandparents and parents are living, and sons, and sons' sons establish separate household registrations and divide the family property, they will be punished with 100 strokes of the heavy bamboo. (*Unless the paternal grandparents or parents complain, there cannot be a prosecution.*) If, during the mourning time for parents, brothers establish separate family registrations and divide the family property, the penalty is 80 strokes of the heavy bamboo. (*The senior relatives in the degree of one year of mourning or above must complain in order for there to be punishment. If [the brothers] have been left orders by the deceased [to do this], the case is not within this law.*)

**Article 88. Persons Who are Inferior and Younger Who, Without Authorization, Make Use of [Family] Property.**

Any inferior and younger person who is living in the same household, who, without the authorization of the superior and older [family members], makes use of the family property, will receive 20 strokes of the light bamboo for 10 taels [of property taken]. For every 10 [additional] taels, add one degree. The total punishment is limited to 100 strokes of the heavy bamboo. If the superior and older family member living in the same house who has the responsibility to divide the family property does so unjustly, he will receive the same penalty.

**Article 89. Supporting Orphans and Old Persons.**

As for widowers, widows, orphans, solitary persons, and persons who are critically or seriously disabled or poor, who have no relatives on whom

they may rely, and cannot survive by themselves, if the official having jurisdiction who ought to support them does not support them, the punishment [for the official] will be 60 strokes of the heavy bamboo. If the official or clerk deducts a portion from the food and clothing that he is supposed to distribute, then punish him on the basis of the law of 'Supervisors and Guardians who Themselves Steal' [Art. 264]. (*In the case of supervisors and guardians, do not distinguish between principals and accessories, but [punish] for the total sum of the illegally obtained property.*)

## CHAPTER 2

*Fields and Houses***Article 90.** *Fraudulently Concealing Fields and their Produce from the Tax.*

1. In the case of everyone who fraudulently conceals fields and their produce (*completely fails to report the household for entry into the registry*) and thus avoids being recorded on the [tax] rolls, (*the money and produce that are to be paid [as taxes] are all concealed, therefore calculate the [area of the] fields that are concealed and*) for 1 *mou* to 5 *mou*, [punish with] 40 strokes of the light bamboo. For each [additional] 5 *mou*, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. The fields (*that were concealed*) are forfeit to the government. The grain taxes that were avoided will, according (*to the number of mou, the amount [of the tax], and the number of years [they were not paid] considered together*), be assessed and paid.

2. If one takes land (*which is registered in his name*) and changes the shape [on the register] (*what the external boundaries include*) or a part (*a portion is taken out of the midst of the whole*), thereby changing the class [of the land] (*for determining the tax*), taking a high [tax category] and making it low, and reducing deceitfully the amount of the tax, or if he fraudulently transfers the fields or produce (*'fraudulent transfer' means a fraudulent transfer to one who has performed the year's obligation, or the transfer of [fields] to the registry of persons or families who are excused [from paying taxes] to claim falsely [that he has performed services] (in order to avoid his own) service, then he, together with the fraudulent transferee, will [receive] the same punishment (the same as for fraudulently concealing fields and produce [above para. 1]).*) The (*reduced or fraudulently transferred*) fields will be [re-registered and the register] corrected. ([*The whole or part of the fields] will revert to the proper household which will be*) assessed, and services will be performed accordingly.

3. If the community head knows [of these acts] and does not report them, he will receive the same punishment as the offender.

4. In the case of persons who [have been dispersed and who] return to their villages and resume their occupations, if the adult males are few and their former fields are many, they may cultivate and sow according to the

best of their ability. The authorities will be notified to enter them on the rolls. The quantity of land held will be computed and the taxes paid and labour performed accordingly. If they occupy too much land which is then left uncultivated, for 3 to 10 *mou*, punish with 30 strokes of the light bamboo. For each [additional] ten *mou*, add one degree, the penalty being limited to 80 strokes of the heavy bamboo. The [extra] fields will be forfeit to the government. If the adult males are many, and the former fields are few, notify the authorities who, from among the neighbouring vacant fields, will, after verifying the size of the workforce, distribute [land] to be cultivated and sown.

**Article 91.** *Field Investigation of Injury and Destruction of Fields and Produce.*

1. In any administrative unit which is injured by flood, drought, frost, hail, or locusts—any sort of calamity (*which makes it necessary to reduce or completely excuse*) the taxes in kind of the fields—an official or clerk who has jurisdiction and who must consider requests and who does not immediately receive the petitions and report (*to the superior and proceed himself*) to make a field investigation, or the superior officials of this official who do not send deputies to check and make a further [field investigation], will each receive 80 strokes of the heavy bamboo. If, at the first or second field investigation, the official or clerk (*who has jurisdiction*) or the official or clerk (*deputized by the superior*) does not himself go to the fields, or, although he goes, he does not diligently make a field investigation according to the facts, but merely relies on misleading reports made by the community heads and the tithing chiefs, and in [the process] characterizes good fields as devastated ones or devastated fields as good, and increases or decreases the quantities and collaborates in these misdeeds to deceive the government and to injure the people, each will receive 100 strokes of the heavy bamboo, and will be removed from office without the possibility of reappointment. If it amounts to a wrongful collection of or exemption from taxes (*the collection of taxes when there are calamities—in which case it is proper to excuse from collection—is said to be wrongful collection; the exemption from the collection [of taxes] when there is no calamity—in which case it is proper to collect [taxes]—is said to be a wrongful exemption*), compute the amount [illegally paid or unpaid]. If [the punishment for illegally obtained property of this amount] is

more serious than this, sentence for illegally obtained property [Art. 345]. (*When a quantity of taxes has been wrongfully exempted or collected, and after the report has been made to the Emperor and approved, the matter is discovered, the [wrongfully reported amount] is called 'illegally obtained property'. Therefore the penalty is more serious than 100 strokes of the heavy bamboo. It is punished on the basis of illegally obtained property [Art. 345].*) The community head and the tithing chief will each be guilty of the same offence. If they have received consideration (*if the official or clerk or the community head or tithing chief has received consideration to make an untrue investigation and report, and if irregular exemptions or collections result*), then compute the amount of the illegally obtained property and sentence on the basis of [receiving consideration and] causing perversion in the law [Art. 344], and punish for the more serious offence.

2. As to officials or clerks who carry on a field investigation or the community heads and tithing chiefs (*who did not [make a misstatement] because of having received consideration, but were only*) careless so that (*there was an inaccurate statement as to the percentages of the devastated and good lands*), then calculate (*the quantity of the fields that were incorrectly characterized*). For 10 *mou* and below, there is no punishment. For 10 to 20 *mou*, the punishment is 20 strokes of the light bamboo. For each [additional] 20 *mou*, add one degree. The punishment is limited to 80 strokes of the heavy bamboo. (*For the officials and clerks, this constitutes a public offence; they will remain in their employ.*)

3. If individuals or families change [the characterization] of harvested fields and deceitfully report that they have been devastated in whole or in part, (*calculate the quantity of the fields about which the deceitful report was made, and*), for 1 to 5 *mou*, punish with 40 strokes of the light bamboo and for every 5 [additional] *mou* add one degree. The punishment is limited to 100 strokes of the heavy bamboo. They will pay taxes for (*the falsely exempted fields*) according to the (*amount*) of the tax. The [tax] will be collected and paid in to the government.

#### Article 92. *The Lands of Meritorious Officials.*

In every case where the household of a meritorious official has its own land (*which it has purchased*) in addition to the public lands which (*the Court*) bestowed [on them] (*which are exempt from taxes and services*), the bailiffs must completely report the land to the authorities so that it can

be registered. They must pay taxes and provide services (*according to the total quantity of land [that is not exempted]*). If there is a violation, (*calculate the quantity of land concealed*), and, for 1 to 3 *mou*, sentence to 60 strokes of the heavy bamboo. For each [additional] 3 *mou*, add one degree. The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years. The punishment is inflicted on the bailiff. The land will be forfeit to the government. (*Moreover, calculate, according to the number of years [that the tax was not paid] the taxes on the concealed [land]. Enforce payment according [to the number of mou, the number of years, and the rate of the [tax]].*) If the community head, or the officials and clerks who have jurisdiction, (*toadying to the influence [of the official]*), make a false field investigation, or if they have known [the facts] and do not report [them], they will receive the same punishment (*as the bailiff*). If they do not know, they will not be punished.

#### Article 93. *The Theft and Sale of Fields and Houses.*

1. Whoever steals (*another's fields and houses and*) sells them, or (*takes his unusable fields and houses and exchanges them [for another's good fields and houses]*), or falsely declares (*another person's fields and houses to be his own*), or who falsely (*writes the price*) in money (*in a written*) contract of *dian*, or who wrongfully takes possession of the field and houses of another, will, for a field of 1 *mou* or one room or below, be punished with 50 strokes of the light bamboo. For each 5 [additional] *mou* or three rooms, add one degree. The punishment is limited to 80 strokes of the heavy bamboo and penal servitude of two years. If the (*fields and houses*) belong to the government, add two degrees.

2. If someone forcibly occupies government or private mountains or plains, lakes, tea plantations, marshes, or smelters of gold, silver, copper, tin, or iron, (*do not calculate the number of mou*). [Punish with] 100 strokes of the heavy bamboo and exile to 3000 *li*.

3. When someone takes land [the ownership of which] is in dispute, (*and the issue contested is not clear*) or that which belongs to another and intentionally declares it to be his property and misleadingly offers it [as a gift] to officials or powerful persons, the donor and the donee will each receive 100 strokes of the heavy bamboo and three years of penal servitude.

4. Land (*that has been wrongfully taken or sold or given to another*) the

price of lands that have been wrongfully sold, and the profits produced by (*the land*) will, according to the years that [they have been wrongfully held], be returned to the government (*in the case of that which must be returned to the government*), or given to the owner (*in the case of that which should be given to the [private] owner*.)

5. If a meritorious official commits an offence [covered by this article], propose the sentence according to the law and memorialize it to the Emperor for final decision.

**Article 94. Purchase of Fields and Houses in the Administrative Unit in which [an Official] is Stationed.**

No official or clerk who is holding office may buy fields or houses within the area where he is currently stationed. Any violation will be punished with 50 strokes of the light bamboo; he will be dismissed from office, and the fields and houses will be forfeit to the government.

**Article 95. Purchase of Fields and Houses by Dian.**

1. In every case of purchase by *dian* of fields and houses, if there is no payment of the deed tax, punish with 50 strokes of the light bamboo. (*Moreover levy on*) one half of the price as stated in the deed for the fields and houses. This will be forfeit to the government. If [the seller] does not transfer the property, for 1 *mou* to 5, punish with 40 strokes of the light bamboo. For each [additional] 5 *mou*, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. The fields (*that are not transferred*) will be forfeit to the government.

2. If someone fraudulently sells fields and houses by *dian* that have already been sold to another by *dian*, then, according to the price received (*from the second sale by dian*), calculate the product of the illicit act and sentence as if it were non-manifest theft [Art. 269]. There will be no tattooing. Levy on the price and return it to the purchaser (*the second purchaser by dian*). The fields and houses will remain in the hands of the original purchaser by *dian*. If the subsequent purchaser by *dian* and his surety know the circumstances (*of the second sale by dian*), their offence is the same as that of the offender. The price will be levied on and paid to the government. If they do not know the circumstances, they will not be punished.

3. If the term of the *dian* of fields, houses, gardens, forests, mills, and other things has elapsed, and the owner of these things is prepared [to pay] the price in order to redeem them, if the *dian* transferee makes an excuse and refuses to let him [the seller] repurchase, he will be punished with 40 strokes of the light bamboo. All the (*excess*) profits received for the years subsequent to the term are to be levied upon and returned to the owner. (*It is still permitted*) to redeem according to (*the original*) price. Even though the term has expired, if the seller of the property is not able to redeem, do not apply this law.

**Article 96. Wrongfully Cultivating and Sowing Public or Private Land.**

Everyone who wrongfully cultivates and sows the fields (*orchards or other types of land*) of another (*not notifying the owner*), will, for 1 *mou* or below, be punished with 30 strokes of the light bamboo. For each [additional] 5 *mou*, add one degree. The punishment is limited to 80 strokes of the heavy bamboo. If the land was uncultivated, reduce the punishment by one degree. If there was force ([the act was] *against the will of the owner*), in each case (*whether the land is cultivated or uncultivated*), add one degree. If it is government land, then in each case (*whether it is wrongful cultivating [without force] or with force, and whether the land is uncultivated or cultivated*), add two degrees. (*Moreover, levy on*) any profits that have been [received], (*and if it is government land*), they will be returned to the government, (*if it is private land*) they will be given to the owner.

**Article 97. Uncultivated Lands.**

In the case of every community head who has within his jurisdiction land that has been registered for the payment of taxes and performance of services that is left barren without good cause (*disasters such as flood or drought*) or [has land] of the sort that is designed for the raising of such things as mulberry leaves and hemp, but that is not sown [to those crops], (*calculate the amount of uncultivated or unsown land*), then take [the whole of the taxable land in the community] as the base and divide it into ten portions, [if] one-tenth [of the total is uncultivated land], sentence [the community head] to 20 strokes of the light bamboo. For each [additional]

one-tenth add one degree. The punishment is limited to 80 strokes of the heavy bamboo. The district officials will each have their sentences reduced (from the penalty of the community head) by two degrees. The head official is the principal. (When [the uncultivated land] is one-tenth and [the punishment is] reduced, there is no punishment. For two-tenths, 10 strokes are left [to be inflicted]. If the punishment is increased, 60 strokes of the heavy bamboo is the limit.) The assistant officials are the 'accessories'. (Again reduce the penalty of the head official by one degree. For two-tenths, if it is reduced, there is no punishment. For three-tenths, there is the punishment of 10 strokes of the light bamboo. In increasing the punishment, the total is limited to 50 strokes of the light bamboo.) In addition, in the case of private households, compute the amount of land that is uncultivated land or that is not sown with such crops as mulberry leaves or hemp, then divide (each household's land) into five portions. For one portion punish [the owner] with 20 strokes of the light bamboo. For each [additional] portion, add one degree. Collect the taxes which should have been paid [had the land been cultivated] in [money] and kind, and pay them into the government. ([The amount of such crops as] mulberries, jujubes, yellow hemp, ramie, cotton, indigo, and safflower which should be planted will be [calculated] and planted according to what is suitable to the soil conditions of each village.)

**Article 98. Discarding and Destroying Tangible Personal Property, Growing Crops, Harvested Produce, etc.**

1. In the case of everyone who (intentionally) discards or destroys another's tangible personal property, or destroys or cuts timber or growing crops or harvested produce, calculate the (amount that was discarded or destroyed and consider it as) the illegally obtained property, and sentence as if it were non-manifest theft [Art. 269]. (Fix the penalty according to [the rule for] non-manifest theft.) There will be no tattooing. (The punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li.) If it is government property, add (to the punishment for non-manifest theft [computed on the basis of] the illegally obtained property) two degrees. If he loses or unintentionally destroys government property, then, in each case (after adding the two degrees for government property), reduce the penalty three degrees (in the case of everyone who discards, destroys,

loses, or unintentionally destroys). Moreover, check the amount and levy for repayment. (Return it to the government or give it to the owner. If he loses or unintentionally destroys) private property, then provide for repayment but do not punish.

2. The punishment for destruction of the stone tablets or stone animals on the tomb of another is 80 strokes of the heavy bamboo. The penalty for destruction of the ancestral tablet of another is 90 strokes of the heavy bamboo. In the case of the destruction or damage to the houses or walls of another, calculate the amount of money required to repair them, and sentence [for that amount considered] on the basis of illegally obtained property [Art. 345]. (For 1 tael of silver and below, the punishment is 20 strokes of the light bamboo. The sentence is limited to 100 strokes of the heavy bamboo and three years of penal servitude.) In each case the actor will be ordered to repair. If it is a government building add two degrees. As for unintentional destruction, the actor is required to repair. There is no punishment.

**Article 99. Unauthorizedly Eating the Melons, Fruit, etc. of a Field or Garden.**

Whoever [enters the] field or garden of another and unauthorizedly eats melons and the other fruit, etc. will be punished on the basis of illegally obtained property [Art. 345]. (Calculate the price of the thing eaten. For 1 tael of silver and above, 10 strokes of the light bamboo. For 2 taels, 20 strokes of the light bamboo. Add degrees according to the price in taels of silver. The punishment is limited to 60 strokes of the heavy bamboo and penal servitude of one year.) The penalty for discarding or destroying [the fruit, etc.] is the same. As for [one who], without authorization, takes and (carries) [fruit, etc.] away or eats it, in the case of the melons or fruit, etc. of the government's fields or gardens, or government-prepared liquor or food-stuffs, add two degrees. (Add two degrees to the penalty for unauthorized eating of another's [fruit, etc.] .) If the guardians give these things, or, knowing the facts, do not report the incident, they will receive the same penalty. If the guardian himself takes the property away, he will be punished on the basis of theft by a supervisor or guardian [Art. 264]. (If it reaches the value of 40 taels, it is regarded as a 'miscellaneous' offence, and is punished with five years of penal servitude.)

Article 100. *Privately Borrowing Government Carriages or Boats.*

In the case of all supervisors or guardians who borrow for their own use or lend to others such things as government carriages, boats, shops and inns, or mills, [both the guardian or supervisor who lends], as well as the one who borrows, will receive 50 strokes of the light bamboo. Determine the number of days that the thing was used, and have the government reimbursed for the rental [considered as illegally obtained property]. (*The amount should not exceed the price of the goods*). If, on calculation, the rental results in a heavier penalty (*than 50 strokes of the light bamboo*), then sentence each for illegally obtained property [Art. 345], increased one degree.

CHAPTER 3

*Marriage: I*

Article 101. *The Marriage of Men and Women.*

1. When a marriage is being arranged for a man and a woman, if (*it should be the case that*) there is a defect (*a disability or an*) infirmity (*sickness*), or if there is [great] age or [great] youth, or if one is the offspring of a concubine, or an adopted son (*of the same clan*), or an adopted son (*of a different surname*), it is the responsibility of each family to inform the other clearly of the matter, so that each may do as it wishes. (*If one party does not wish to proceed, it may withdraw* [from the negotiations]. *If both wish* [to proceed], *then, in agreement with the marriage broker*) they will write out the marriage contract. [The young people] will be engaged and married according to the rites. If [the head of the bride's family] who has agreed to the marriage of the daughter has already signed the marriage contract, or if there is a private agreement (*this means he already knew of such matters as the man's defect, infirmity, age, or his status as the son of a concubine or as an adopted son*), and he changes his mind, (*the member of the woman's family who is in charge of the marriage decision*) will receive 50 strokes of the light bamboo. (*The woman will return to the husband.*) Even though there is no marriage contract, when engagement presents have already been received, this is also the case.

2. If [the head of the woman's family] marries her off again to another man, and [this other] marriage has not yet been completed, (*the member of the woman's family who is in charge of the marriage*) will receive 70 strokes of the heavy bamboo. If the marriage has already been completed, he will receive 80 strokes of the heavy bamboo. As for one who agrees to take [the woman whose agreed-upon marriage did not take place] in marriage, (*if the man's household*) knows the circumstances, (*the one in charge of the marriage*) will receive the same punishment (*as* [the one who is in charge of the marriage in] *the woman's family*). The wedding presents are forfeit to the government. If he does not know the circumstances, he will not be punished and the wedding presents will be levied on and restored (*to the one who was going to marry the woman subsequently*). The woman will return to the first husband. If the first husband does not want her, double the amount of the [value of the] wedding presents will be

levied on and given to him and the woman will go to the second husband. If the groom's family changes its mind (*and again betroths him*), the punishment is the same. (*Moreover order him to marry the former woman. The subsequent fiancée is permitted to marry someone else.*) The wedding presents are not levied on or returned.

3. If there are a man and a woman whose marriage has not been completed, and there is the commission of a sexual offence or theft (if the man has committed an offence, the woman may marry someone else, or if the woman has committed the offence, the man may marry someone else), this law is not used.

4. If, in a marriage, the family of the woman uses fraud and deceit, (the one in charge of the marriage) will be punished by 80 strokes of the heavy bamboo. (*This means such [circumstances] as when the woman has a defect or infirmity, and they take a sister and falsely let her be seen and afterwards use the woman with a defect or who is infirm to complete the marriage*), the wedding presents will be levied on and returned. If the man's family practises fraud and deceit, add one degree. (*This means if there are [situations] such as a marriage that is agreed upon with a man who is a member of the family by birth, but the marriage is concluded with a man who is adopted, or again when a man has a defect or infirmity and [his family] orders a brother to be falsely seen [as the one who is to be married] and then afterwards they take the person who has a defect or infirmity and complete the marriage*) the wedding presents are not returned. If the marriage has not yet been completed, settle it according to the original agreement (*the falsely substituted whole brother or sister or a son of the whole blood will be married. If the falsely substituted man or woman has already been engaged to another or is already married, then this is not within the [above] rule of settling it according to the original agreement*). If the [fraudulently induced] marriage has been completed, it is dissolved.

5. When a marriage is set to take place, even though the wedding presents have been presented, if the time agreed on has not yet arrived and the man's family forcibly takes the woman in marriage, or the time has already arrived but the woman's family intentionally violates the time [fixed for the marriage], (*the one in charge of the marriage of the man or the woman*) will receive 50 strokes of the light bamboo.

6. If an inferior or younger relative is away on government service or on business, and his paternal grandparents, parents, his father's brothers and their wives, or his father's sisters, or his older brothers or sisters (*after the departure of the younger relative*) arrange a marriage, but the inferior or

younger relative (*unknowingly*) himself marries a wife, if the marriage has already been completed, the marriage that is prior in time is the [valid] marriage. (*The woman whom the superior and elder family members had arranged to have him marry may marry someone else*). If it has not been completed, the marriage arranged by the superior and elder family member will prevail. (*The one whom he himself arranged to marry may marry someone else*). If there is any violation, he will be punished with 80 strokes of the heavy bamboo (*and the situation will be corrected*).

#### Article 102. *The Selling [by Dian] or Hiring out of Wives and Daughters.*

1. If anyone in exchange for consideration (*enters into a contract to sell*) his wife or concubine by *dian* (*or, for a fixed term, temporarily*) hires her out to another as a wife or concubine, (*the husband*) will receive 80 strokes of the heavy bamboo. When (*the father*) sells his daughter by *dian* or hires her out, he will receive 60 strokes of the heavy bamboo. The woman will not be punished.

2. One who falsely claims that a wife or concubine is a sister and marries her off to another, will be punished with 100 strokes of the heavy bamboo. The wife or concubine will receive 80 strokes of the heavy bamboo.

3. One who knows [the circumstances] and purchases a woman by *dian* and takes her in marriage will receive the same penalty. Moreover, the marriage will be dissolved (*a daughter will be given to her parents, a wife or concubine will be returned to her clan*). The wedding presents will be forfeit to the government. If he does not know the circumstances, he will not be punished. The wedding presents will be levied on and returned (*but the marriage will still be dissolved*).

#### Article 103. *Failing to Observe the Order Between Wives and Concubines.*

Everyone who makes his wife a concubine will receive 100 strokes of the heavy bamboo. If, while the wife is living, he makes his concubine a wife, he will receive 90 strokes of the heavy bamboo. Moreover, his action will be corrected. If, while he has a wife, he marries another wife, he will also

receive 90 strokes of the heavy bamboo. (*The woman who is married subsequently*) will be divorced (*and returned to her clan*).

**Article 104. Chasing Away an Adopted Son-in-law and Marrying Off the Daughter.**

Everyone who chases away an adopted son-in-law (*who has already entered the prospective household*) and marries off the daughter [to another], or takes in another adopted son-in-law, will receive 100 strokes of the heavy bamboo. The daughter will not be punished. (*If the daughter who has been engaged to be married to an adopted son-in-law agrees with her parents in chasing off the adopted son-in-law and marrying someone else, she will also receive 100 strokes of the heavy bamboo, and if* the family of the man (*she subsequently married*) knew of the circumstances and received her in marriage (or [let] *the [second] adopted son-in-law enter her family*), they will receive the same penalty. (*If the marriage is not yet completed, each penalty will be reduced five degrees, and the wedding presents will be forfeit to the government.*) If they do not know, they are not punished. The daughter will be given to her first husband. They will leave her home and live [together] separately [from it].

**Article 105. Marrying or Taking in Marriage during Mourning.**

1. Whenever (*a man or a woman*) during mourning for his or her parents and (*a wife or concubine during*) mourning for her husband, himself or herself (*as the person in charge of the marriage*) marries or takes in marriage, he or she will receive 100 strokes of the heavy bamboo. If a son is in mourning (*for his father and mother and*) takes a concubine, or if a wife (*while in mourning for her husband*) or a daughter (*while in mourning for her parents*) marries a man as a concubine, the punishment for each will be reduced two degrees. If a woman with a title of honour [which prohibits her from remarrying] whose husband is dead (*although the period of mourning is over*) marries again, the penalty will be the same. (*Prepare the sentence as in the case of those women who marry during mourning and [propose] revocation of (the imperial commission).* Moreover, dissolve the marriage. If [the man] knows the circumstances (*that [the woman] is in mourning or that she has a title*) and marries her,

(*the one in charge of the marriage*) will be punished, but the punishment is reduced five degrees. (*The wedding presents will be forfeit to the government.*) If he does not know, he will not be punished, (*but the marriage will still be dissolved and the wedding presents forfeited*). If, during mourning for paternal grandparents, father's brothers and their wives, father's sisters, or older brothers or sisters (*except for the oldest son's son who is the successor of his paternal grandfather* [who, because of the death of the father whose place he takes, is treated as if he were the son of his grandfather so that the punishment is 100 strokes of the heavy bamboo]) a person is given in marriage or takes in marriage, he will receive 80 strokes of the heavy bamboo. (*The marriage is not dissolved.*) If it is [a marriage with or as] a concubine, there is no punishment.

2. Whenever one who is in charge of the marriage [male or female] during the period of mourning for his or her parents, her parents-in-law, or her husband, marries off [a woman subject to him or her] or has [a man subject to him or her] take in marriage, he or she will be punished with 80 strokes of the heavy bamboo.

3. If the mourning for her husband is over and (*a wife or concubine*) wishes to remain chaste, if her paternal grandparents or parents, or her husband's paternal grandparents or parents force her to marry, they will be punished with 80 strokes of the heavy bamboo. If it is [a matter of] relatives in the second degree, add one degree. If it is a [matter of relatives of] of the third degree or below, add one more degree. The woman and the one to whom she is married will not be punished. If the marriage is not complete, she will be returned to the home of her former husband and be permitted to remain chaste. The wedding presents will be returned. If the marriage is completed, she will be given to the one to whom she was married and the wedding presents will be forfeit to the government.

**Article 106. Marrying or Taking in Marriage While Parents are Imprisoned.**

In any case in which the paternal grandparents or parents are imprisoned for an offence entailing the death penalty, and the child or grandchild gets married, or takes in marriage (*on his own*), he will be punished with 80 strokes of the heavy bamboo. (*If the son takes [a concubine], or the woman marries a man*) as a concubine, the penalty is reduced two degrees. If they receive an order [to marry] from their (*imprisoned*) paternal grandparents

or parents and the woman marries or the man takes a wife, they will not be punished. Also there may not be a feast. (*If this [rule] is violated, then they will receive 80 strokes of the heavy bamboo according to the law of feasting when the father and mother are imprisoned [Art. 180].*)

#### Article 107. *Marrying Someone with the Same Surname.*

(*The term 'marriage' refers both to a wife and to a concubine. According to the Li [the Rites of Zhou], one cannot take in marriage one of the same surname. That is the reason for stressing the difference [which must exist between persons of the same surname].*)

In every case of marriage between two people with the same surname, (*the one in charge of the marriage together with the man and woman*) will each receive 60 strokes of the heavy bamboo, and the marriage will be dissolved. (*The woman who is married will be returned to her clan, and the wedding presents will be forfeit to the government.*)

#### Article 108. *Marriage Between Superior and Inferior Relatives.*

1. All relatives within the degrees of mourning in the external [female] line or by marriage, (*whether they are*) persons of superior rank (*or whether they are*) persons who are of inferior rank or younger, who marry each other, as well as a man who marries his sister of the same mother but a different father, or the daughter of his wife by a former husband, will all be punished as 'relatives' who have engaged in intercourse [Art. 366].

2. [Marriage with the following persons is prohibited:] daughters of father's father's sisters, daughters of father's mother's brothers, or daughters of mother's father's sisters, and daughters of mother's mother's brothers, daughters of father's mother's sisters, mother's mother's sisters, father's mother's father's brother's daughters, mother's mother's father's brother's daughters, mother's father's sisters, mother's father's father's brother's daughters, one's own mother's father's brother's daughters or mother's father's father's brother's son's daughters, (*one's own*) sister's daughters, (*sisters of*) daughter's husband or sisters of wives of sons or sons' sons. (*Although these persons are outside the degrees of mourning*), marriage with them is prohibited. In the case of a violation of this prohibition, (*the man and the woman*) will each receive 100 strokes of the heavy bamboo.

3. If one takes in marriage the daughters of his father's sisters, or the daughters of his mother's brothers or sisters (*although there is no difference as to superior or inferior rank, still there is three months mourning*), he will receive 80 strokes of the heavy bamboo.

4. [Any] marriage [that violates the prohibitions of this Article] is dissolved (*and the woman returns to her clan. The wedding presents are forfeit to the government.*)

#### Article 109. *Taking in Marriage a Relative's Wife or Concubine.*

1. When someone takes in marriage a female relative who is of the same clan but outside the degrees of mourning<sup>1</sup> or who [marries] the wife of a relative outside the mourning relationship, (*both the man and the woman*) will receive 100 strokes of the heavy bamboo. If he takes in marriage the wife of someone (*in the same clan*) who is within the fifth degree of mourning, or the wife of his sister's son, he will be sentenced to 60 strokes of the heavy bamboo and penal servitude of one year. If it is (*the wife of someone in the*) fourth degree of mourning or above, each will be sentenced on the basis of fornication [Art. 386] (*from penal servitude of three years to strangulation and beheading*). If the (*relative's wife*) has been repudiated and has remarried and one takes her in marriage as wife or concubine (*this is not [the above] case of marrying a relative outside of mourning*), each will receive 80 strokes of the heavy bamboo. If one takes in marriage the concubine of a father or paternal grandfather or the wife of one's father's elder or younger brother (*regardless of whether she has been repudiated or remarried*) each will be beheaded. One who, when his elder brother dies, takes [the brother's] wife in marriage, or, when a younger brother dies, takes [the brother's] wife in marriage, (*regardless of whether she has been repudiated or remarried, will be condemned to*) strangulation.

2. If it is a concubine (*not including the concubine of the father or paternal grandfather*), the punishment is reduced (*from the case of the wife*) two degrees. (*If she is repudiated, or remarried, reduce accordingly. If originally she was a wife, and she is taken as a concubine, then sentence as for a wife. If she was originally a concubine, and she is taken as a wife, then reduce the sentence and sentence as for a concubine.*)

<sup>1</sup> Possibly a female relation in the father's generation, the offender's generation, or his daughter's generation who is beyond the degrees of mourning.

3. When someone marries a female relative on the father's side in the same generation as the father or a female relative on the father's side in the father's generation or the generation below, or in the same generation, who is in the fifth degree of mourning and above, in each case sentence on the basis of fornication [Art. 386].

4. (*Except in cases where the death penalty is inflicted*) [in the case of a marriage that violates the prohibitions contained in this article], the marriage will be dissolved.

**Article 110.** [An Official Who] *Takes a Woman from Among the People of his Administrative Unit as a Wife or Concubine.*

Every official directly governing people in a prefecture, department, or district who, while in the exercise of his functions, takes a woman from among the people in his administrative area as a wife or concubine, will receive 80 strokes of the heavy bamboo. If he is a supervisory official (*superior* [official] *within or without the capital*) who takes, as a wife or concubine, the wife or concubine or daughter of a man involved in a matter (*which is under investigation*), he will receive 100 strokes of the heavy bamboo. The woman's family (*the one in charge of the marriage*) will receive the same penalty. The two [marriages] of the wife or concubine will be dissolved, and a daughter will be returned to her family. (*As for the two [marriages] being dissolved, it is not permitted to give her to the subsequent spouse, and it is also not permitted to return her to her former husband. It is ordered that she be returned to her clan. As for a daughter [whose marriage has been arranged but not completed], her father and mother are regarded as her closest 'relatives', and it is proper to return her to her clan. If she already had a husband, he will be regarded as her closest 'relative'. Give her to this husband so that they may be reunited.*) The wedding presents are forfeit to the government. (*If there has been reliance on power*) to force the marriage, in every case increase the punishment two degrees. The woman's family will not be punished. (*A wife will be returned to her former husband, a daughter to her family.*) The wedding presents will not be returned. If it is a son or son's son or younger brothers or brother's sons or [other] family members, for whom the [official] arranges the marriage (*whether peaceably or with force*), the punishment is the same. The man and the woman are not punished. (*If one*

*takes in marriage a woman* [who is the wife, concubine, or daughter] *of someone involved in a case* [that is before him], *and this causes perversion of the law, then sentence on the basis of* [receiving consideration and] *causing perversion of the law* [Art. 344] *according to the more serious* [punishment].)

**Article 111.** *Taking in Marriage Women who are in Flight.*

Whenever anyone takes in marriage as a wife or concubine a woman who has (*herself*) committed an offence, ([if the matter] *has already been brought before the official*) and she has run (*away*), he will, if he knows the circumstances (*of the flight*), get the same penalty (*as if he had committed her offence. The woman will have two degrees added to the offence from which she was in flight. The one who takes her in marriage will not receive the increase in the punishment.*) If it amounts to death, reduce one degree. Dissolve the marriage. If he does not know the circumstances, he is not punished. If there is no husband, and (*moreover*) there is an amnesty which excuses her from her penalty, there is no dissolution (*though if there was one of the reasons* [making a marriage improper] *it will still be dissolved*).

## CHAPTER 4

### Marriage: 2

#### Article 112. *Forcibly Taking in Marriage the Wife or Daughter of an Honourable Family.*

In all cases where a person who is influential and strong (*who is in possession of force*) forcibly takes the wife or daughter of an honourable family, and wrongfully makes her his wife or concubine, he will be punished with strangulation (*with delay*) and the wife or daughter will be returned to her family (*the wife returns to her husband and the daughter to her family*). If he marries her to his son, son's son, younger brother or brother's son [or to other] members of his household, the punishment (*which is of the one in charge of the marriage*) will be the same. The man or woman (*who was married*) is not punished (*though the [marriage] is dissolved and [the woman] is returned to her family*).

#### Article 113. *Marrying Musicians as Wives or Concubines.*

Every (*civil or military*) official (*or*) clerk who takes a musician (*a prostitute*) to be a wife or concubine will be punished with 60 strokes of the heavy bamboo. Moreover, the marriage is dissolved. (*She will be returned to her family. She will not be returned to her work as a musician. The wedding presents will be forfeit to the government.*) If the son or son's son of an official (*who will inherit a title [as the result of his forebear's position]*) takes [a musician] in marriage, the punishment is the same. Make a record in the register and wait until the day when he inherits the title of honour, [and then] reduce (*the rank of the title to be inherited*) one degree and let him retain his position).

#### Article 114. *A Buddhist or Taoist Monk Who Takes a Wife.*

1. Any Buddhist or Taoist monk who takes a wife or concubine in marriage will be punished with 80 strokes of the heavy bamboo and will be defrocked. The woman's household (*the one in charge of the marriage*)

will receive the same penalty. The marriage will be dissolved. (*The wedding presents will be forfeit to the government.*) If the chief priest of the Buddhist temple or the Taoist temple knew the circumstances, he will receive the same penalty. (*Since he is incriminated because of being implicated with another's offence, he will not be defrocked.*)

2. If a Buddhist or Taoist monk deceitfully [claims to] seek someone in marriage for a relative or servant, but the Buddhist or Taoist monk himself takes her, sentence for fornication. (*Punish on the basis of the rule that if a Buddhist or Taoist monk commits fornication, two degrees are added to the penalty of an ordinary person who commits fornication where there is consent [Art. 372]. The wife or woman will be returned to her family, and the wedding presents will be forfeit to the government. If there is force, use the provisions on fornication with force [Art. 366.2].*)

#### Article 115. *Marriage Between an Honourable and a Base Person.*

Every household head who arranges to have his slave take in marriage the daughter of an honourable family will be punished with 80 strokes of the heavy bamboo. The woman's household (*the one in charge of the marriage*) will receive the same penalty reduced one degree. If he does not know the circumstances, he is not punished. If the slave himself takes in marriage, the punishment is the same. If [in that case] the household head knows the circumstances, the punishment is the same, reduced two degrees. If he causes her to be registered (*this refers to the head of the household*) as a slave, he will receive 100 strokes of the heavy bamboo. One who falsely represents a male or female slave to be an honourable person and causes him or her to be married to an honourable person as husband or wife, will receive 90 strokes of the heavy bamboo. (*If the deception is by the family head, punish him; if it is by the slave, punish him or her.*) The marriage will be dissolved and [the entry in the register] corrected. (*This means that the woman who has been registered as a slave will have her status corrected to that of an honourable person.*)

#### Article 116. *Repudiating a Wife.*

1. Whenever the wife has given no (*cause*) for repudiation (*among the seven [causes] for repudiation*), and where (*as regards the husband*) there

are no circumstances that extinguish the duty [between them], and ([the husband] *without a valid reason*) repudiates her, he will receive 80 strokes of the heavy bamboo. Even if she has committed one of the seven acts that constitute grounds for repudiation: (*she has no son; she is wanton; she does not serve her parents-in-law; she talks too much; she steals; she is jealous and envious; she has a malignant disease*), if there is one of the three impediments to repudiation: (*she has carried on three years of mourning [for the husband's parents]; the husband was previously poor and they have become rich; the home from which she was married no longer exists*), but he repudiates her, [the punishment] will be reduced two degrees, and he will be forced to take her back as his wife.

2. If there is a case where she has committed an act that extinguishes the duty that binds them, and he ought to divorce her and does not divorce her, each will also receive 80 strokes of the heavy bamboo. If the two spouses do not get along together, but wish to divorce, there is no punishment. (*If in spirit they are already separated, how can they be united by force?*)

3. If (*the husband does not wish the divorce and*) the wife (*on her own*) turns her back on her husband and runs away, she will be punished with 100 strokes of the heavy bamboo, and the husband may, as he will, marry her off or sell her. (*If the wife*) as a result of her flight remarries (*on her own*), she will be strangled (*with delay*). If, because the husband (*abandoning the wife*) has run away, and she does not, within the three year period notify the authorities, but runs away, she will receive 80 strokes of the heavy bamboo. If, without authorization, she remarries (*on her own*), she will receive 100 strokes of the heavy bamboo. If she is a concubine, each [punishment] will be reduced two degrees. (*She, [wife or concubine], will be punished in this way if there is one in charge of the marriage, a marriage broker, and wedding presents. If there is no one in charge of the marriage, and the marriage rites are not completed, punish on the basis of fornication with consent or seduction [Art. 366]. The wife or concubine will still be married off or sold in accordance with the husband's wish.*)

4. If a female slave abandons [betrays her duty towards] the household head and runs away, she will be punished with 80 strokes of the heavy bamboo. If, [after having run away], she remarries, she will receive 100 strokes of the heavy bamboo and be returned to her household head.

5. If there is one who hides [the woman who ran away], or [someone who], knowing the circumstances, takes her in marriage, each will receive the same penalty (*as the wife, concubine, or female slave [who ran away]*),

up to death, which will be reduced one degree. (*The wedding presents will be forfeit to the government.*) If he does not know the circumstances (*this is speaking of the one in charge of the marriage*), he will not be punished. (*The wedding presents will be returned.*)

6. If, by the act of (*the female's*) superior or elder relative in the second degree or above, who is acting as the person in charge of the marriage, she is remarried, the penalty is imputed to the one in charge of the marriage. The wife or concubine merely receives the penalty for running away. When another relative acts as the one in charge of the marriage (*'another relative' means a relative in the second degree who is inferior or younger, or a relative of the third degree or below who is superior, elder, inferior, or younger who acts as the one in charge of the marriage who remarries [the female]*), if the matter is initiated by the one in charge of the marriage, then he is the principal, and the man and woman are accessories. If it is initiated by the man or woman, they are principals and the one in charge of the marriage is the accessory. If the punishment is death, the one in charge of the marriage will have his penalty reduced one degree. (*Regardless of whether it is [relatives] in the second degree and above, or 'another relative', the one in charge of the marriage gets 100 strokes of the heavy bamboo and is exiled to 3000 li.*)

Article 117. *The Punishment of the One in Charge of the Marriage and the Marriage Broker in the Case of Marrying or Taking in Marriage Contrary to the Law.*

1. In the case of marrying or taking in marriage contrary to law, if the one who arranged the marriage was (*the man or woman's*) paternal grandfather or grandmother, father or mother, an uncle—older or younger brother of the father—or his wife, an aunt who is a sister of the father, an elder brother, elder sister, or the grandfather or grandmother in the maternal line, (*the punishment for breaking the law*) will be applied only to that person. (*The man and the woman will not be punished.*) If another relative arranged the marriage (*'another relative' means an inferior or younger relative of the second degree, or a superior, elder, inferior, or younger relative in the third degree or below who acted as the one in charge of the marriage*), and if the matter is the result of the act of the one in charge of the marriage, then he will be punished as principal and the man and woman as accessories. (*The penalty is reduced one degree.*) If the

[marriage] is arranged by the man or the woman, the man or woman will be punished as principal and the one in charge of the marriage will be punished as accessory (*reduced one degree*). If the penalty amounts to death (*except for the case where the marriage is arranged by the man or the woman and the law provides for death*) [the penalty of] the one in charge of the marriage will be reduced one degree. (*As for the one in charge of the marriage, although he is the principal, the punishment does not extend to death; therefore it is reduced one degree. If the man and the woman are punished as accessories, if the penalty is death, they are also punished with the maximum of exile. Their penalties cannot be reduced again one further degree from the exile which is the punishment for the one in charge of the marriage.*)

2. If the man or the woman is forced into the matter by the one in charge of the marriage and it does not depend on his or her own will, so also if the man is under 20 or the woman is still at home [and unmarried] (*although they are not forced*), also merely punish the one in charge of the marriage. The man or the woman is not punished. (*It is not permitted to treat them as principals or accessories.*)

3. If the marriage has not been completed, then the punishment will be reduced five degrees from the case where the marriage is completed. (*If the penalty is strangulation and is reduced five degrees, then it is 70 strokes of the heavy bamboo and penal servitude of one and a half years. The other cases are similarly reduced.*)

4. If the marriage broker knows the circumstances, then he will receive the punishment of the offender (*the man or woman or the one in charge of the marriage*) reduced by one degree. If he does not know the circumstances, he is not punished.

5. In every case where [the law] deals with a marriage contrary to the law and the article says 'the marriage will be dissolved and the matter corrected', although there is an amnesty (*it is only the penalty that is pardoned*). The marriage is still dissolved and the matter corrected. In the case where [the law provides for] dissolving the marriage, the woman will be returned to her own clan.

6. As to wedding presents, if the one taking in marriage knows the circumstances (*regardless of whether the marriage has been completed or not, in all cases they*) will be forfeit to the government. If he does not know the circumstances, then they will be returned to the owner [the groom's family].

## CHAPTER 5

*Granaries and Treasuries: I*

([A place where] *rice and grain are collected is called a granary.* [A place where] *money and textiles are collected is called a treasury.*)

Article 118. *The Rules of Coinage.*

1. All rules concerning coinage, the establishment of the coinage office [of the Board of Works], and the coinage office [of the Board of Revenue], etc., and the smelting [and manufacture] of copper cash must, both in the capital and outside, be carried out uniformly throughout the Empire observing the amounts stated in decrees issued after deliberation by the Board of Revenue. As for the price in money [copper cash] among the people of gold, silver, rice, wheat, cotton, silk, and other things, it is in accordance with the current [market] price. Permit [these prices] to be in accordance with the convenience (*practice*) of the people. If anyone blocks [the process] and does not immediately implement [these prices], he will receive 60 strokes of the heavy bamboo.

2. In the case of military or civilian households, (*as to their private store of copper utensils*), apart from mirrors, military implements, as well as the bells, chimes, and cymbals of Buddhist and Taoist temples, convents, and monasteries, any other [objects of copper] which they are permitted to own may, if they are broken, be sold to the government. For every *jin*, the government will give 7 *fen* of silver, with increases or decreases from time to time. Anyone who engages in private commerce or hides [the copper] in his house and does not send it to the government will be punished with 40 strokes of the light bamboo.

Article 119. *Collecting Grain [Taxes] After the Established [Time]-Limits.*

In the case of all receipts of the summer tax (*winter wheat*), the granaries will open on the fifteenth of the fifth month [to begin collecting]. The

[receipt of the taxes] must be completed by the end of the seventh month. For the autumn tax (*receipts of grain and rice*), open the granaries on the first of the tenth month. The [receipt of the taxes] must be completed by the end of the twelfth month. If there is a place where there is an early harvest, collect it ahead [of schedule]. Do not use this law. If the [collection of the] summer tax is delayed until the end of eighth month or the collection of the autumn tax grain is not complete by the end of the first month of the following year then, as to the deficiency, the supervisory grain official and chief clerk, the various community heads charged with speeding up the collection, and the households which owe grain taxes, will each, taking the total quantity (*of the grain tax*) as the base, for each one-tenth that is short, be punished with 60 strokes of the heavy bamboo. For each [additional] one-tenth, add one degree. The total punishment is limited to 100 strokes of the heavy bamboo. If the officials and clerks and the community heads receive consideration (*and permit delay in payment*), compute the consideration (*received*) and sentence on the basis of [receiving consideration and] causing perversion in the law [Art. 344] according to the heavier penalty. (*Differentiate between the penalty for receiving consideration and that for exceeding the time-limit according to their [respective] severity.*) If the violation of the time-limit [the delay] is more than one year, and the tax is not fully paid, the individuals, the households, and the community head will receive 100 strokes of the heavy bamboo. For the supervising grain officials and chief clerks, propose a sentence in accordance with the sub-statuts.

**Article 120. Receiving Too much Tax Grain above the Level of the Grain Measure [Hu].**

In every granary (*the collector of taxes*) who receives tax grains will permit the households that come to pay the taxes themselves to use a rod to level off the measures [*hu*] that are [used] for paying and receiving to assure the correct amount. (*i.e. the one receiving will assure the correct amount on the basis of level measures*) in the paying and satisfying [of the debt]. [After the grain has been delivered], it is permitted according to the regulations [of the Board of Revenue] to exclude the waste [in arriving at the final computation]. If the granary officials and measurers do not permit the paying household to pass a level over the grain container, if they kick the measure [and cause the grain to shake down] or pile it up in a cone

[above the level of the measure] and receive too much above the level of the container (*into the granary*), the punishment is 60 strokes of the heavy bamboo. If, when the (*total*) of (*the excess amount received of*) excessive tax grain is computed, [if the penalty for receiving] illegally obtained property [in this amount] is greater (*than 60 blows with the heavy bamboo*), punish for illegally obtained property [in that amount] [Art. 345]. The punishment will be limited to 100 blows of the heavy bamboo. (*All of these provisions refer to the case where [the grain] is [received into] in the granary. Where [the official] has taken it for himself, then sentence on the basis of a supervisor or guardian who himself steals [Art. 264].*) If the supervising official or clerk has knowledge of the circumstances and does not report [the matter], he will receive the same penalty. (*The excess amount is given back to the owner.*) If he does not know, there is no penalty.

**Article 121. Hiding or Consuming Tax Grains or Other Taxable Material.**

Whenever someone (*where the household itself does the transporting*) sends the tax grain or other articles on which the household is liable for tax (*such as silk, copper, iron, etc.*) as well as other objects which must (*by constraint*) be forfeit to the government (*for which it has already given a transport document [such as a bill of lading]*) and hides them (*to benefit from them, or makes private*) use or consumption of them and does not turn them in, or fraudulently claims that they have been injured or lost (*by flood, fire, or theft*) and cheats the official in charge of (*receiving them*), then compute the deficiency in the amount paid (*as illegally obtained property*) and sentence<sup>2</sup> as if it were non-manifest theft [Art. 269]. (*The sentence is limited to 100 strokes of the heavy bamboo and exile to 3000 li*). There will be no tattooing. If the official or clerk in charge of transportation knows the circumstances (*of hiding or fraud*) he will receive the same penalty. If he does not know, he will not be punished. (*This is a public offence. Each will remain in his office or employment. If he receives consideration and intentionally condones [the offence], sentence on the basis of [receiving consideration and] causing perversion in the law according to the more serious penalty [Art. 344]. In the case where a small household has added [its tax articles to those of another to be sent with them and the*

<sup>2</sup> Presumably the head of the household will be sentenced. The Chinese text is not clear.

one who gets them] *takes and hides them, this person will be sentenced as if it were non-manifest theft [Art. 269] in accordance with this law.*)

#### Article 122. *Gathering and Paying the Grain Tax [of Another].*

1. Whoever gathers the grain tax [of another] will receive 60 strokes of the heavy bamboo. Order (*the said offender*) to go to the granary and pay the full amount (*according to what he gathered*). Moreover, impose a fine on the offender himself of one half of the amount (*according to what was to be paid*) which will go to the government.

2. If the supervisor or the guardian (*an official or employee relying on his influence*) gathers [the taxes] and pays them over, the punishment will be increased two degrees. (*Moreover, impose a fine of half [of the amount] which is forfeit to the government.*)

3. As for the rice and grain [wheat and barley] of small households that have [only] odd pieces of land (*remnants of fields*), or which are single, being composed of a single adult male so that there are insufficient [persons] to constitute a household), when because it is convenient to put together the amounts of taxes owed (*within the community*) and deliver them to another household [of their community] to take care of [all of] the tax payments, do not prosecute. (*If the one gathering [the tax payment] collects the correct amount but misappropriates [some of it] for his own use or takes an excess amount [over what is actually owed by the one from whom he collects] and misappropriates it for his own use sentence on the basis of fraud [Art. 274]. If he obtains the [payment] by fraud, sentence on the basis of theft by a supervisor or guardian himself stealing [Art. 264]. One who gives [grain, silver, etc.] to another [to pay the taxes for him] will be sentenced to beating with the heavy bamboo for doing that which ought not to be done [Art. 386; this presumably does not refer to the small householder].*)

#### Article 123. *Issuing False Settlements and Partial Receipts.*

(*Whenever the entire amount of grain tax is completely paid, a sealed document will be issued as a settlement. If the granary or the treasury collects a fraction, it gives a partial receipt [a red receipt].*)

1. In the case of every granary and treasury that receives money, grain,

or other things that are required to come to the government (*when the amount*) is not sufficient, but the supervisor and guardian in agreement with other supervisory officials and clerks falsely issue a full receipt (*and give it*) to those (*who have delivered [the taxes]*), compute the amount falsely accounted for, adding all the falsely reported quantities together (*without dividing for each offender*) as the basis for [computing] the penalty on the basis of theft by a supervisor or guardian himself stealing [Art. 264].

2. If an official is sent to verify and inventory money and grain and the quantity is short and he, together with (*the supervisor and supervisory official*), sends a report that it is complete, the punishment is the same. (*Also compute the amount of the deficit and sentence on the basis of the supervisor or guardian himself stealing [Art. 264]. Add the illegally obtained property all together.*) If he has received consideration, compute the amount (*that he personally obtained*) and punish on the basis of [receiving consideration] and causing perversion of the law according to the heavier penalty [Art. 344].

3. In the case of a supervisor or guardian who does not receive the quality [of property] which he should receive (*stating falsely that he has received orders [from superiors]*), and receives a different [type of] property and fraudulently issues a partial receipt, also sentence on the basis of the supervisor or guardian himself stealing [Art. 264]. If the household [heads] who made payment knew the circumstances, they are punished, but reduced two degrees. There will be no tattooing. The property which was paid in [is considered to be] illegally obtained property and is forfeit to the government. If [the household heads] do not know, they are not punished. The property is returned to them.

4. (*In all of the above cases*) if someone in the same office knows and does not report, he will receive the same penalty. (*If it is death, it will be reduced one degree.*) If he does not know and has not signed the documents, he will not be punished. (*He will be sentenced on the basis of [having failed in his duty of surveillance and] having failed to discover when something happens [Art. 130].*)

#### Article 124. *Privately Using Surplus Grain and Money to Make Up Deficits.*

1. Every yamen, granary, or treasury, when it has surplus money and grain must report the matter completely and accurately to the government

and clearly (*set up a file in*) the receipts (*book and separately*) account (*for its expenditure*). If the supervisor or guardian takes the excess money and grain and privately uses it to make up the deficits in other accounts, deceiving the government and practising fraud, (*do not distinguish between principal and accessory but*) compute the amount of the illegally obtained property and punish on the basis of the supervisor or guardian himself stealing [Art. 264]. (*The amounts of the deficits will be levied and returned to the government.*)

2. If the Palace Treasury receives gold or silk and does not complete the transaction [of taking delivery of them] on the same day, (*it is not permitted to take these items* [those not officially received] *out* [of the Treasury]). It is permitted to register them and place them in the Treasury. If there are things in excess, the Treasury will prepare a statement that is clear and precise and will properly notify the Board of Revenue and give an accounting. Those who (*the households that are making payment*) misleadingly and without authorization take gold and silk, etc., out (*regardless of the quantity*) will be beheaded. (*This is a miscellaneous offence. [The punishment] will be commuted to five years of penal servitude.*) If the gate-keeper makes a mistake in the questioning and counting and searching [the persons, packages, etc. [of those going out], he will be punished with 100 strokes of the heavy bamboo. (*The gold, silk, and other things will be levied on and returned to the state.*)

#### Article 125. *Privately Borrowing Money and Grain* [Belonging to the Government].

1. In the case of every supervisor or guardian who takes money or grain or other things that belong to the government (*such things as gold or silk, but not including such things as clothing listed in the following article* [Art. 126]), and privately borrows them to use or to lend to another, even though there is a writing (*the word 'writing' includes a written agreement, an [informal] receipt, or register*), calculate the amount (*of the borrowed*) illegally obtained property, and sentence on the basis of the supervisor or guardian himself stealing [Art. 264]. If it is one who is not a supervisor or guardian who borrows, sentence on the basis of an ordinary person stealing money and grain from a granary or treasury [Art. 265]. (*If he is a supervisor or a guardian he will be punished on the basis of [the supervisor or guardian] himself stealing. If he is not a supervisor*

*or guardian, merely punish on the basis of theft by an ordinary person. Levy on the original thing, and return it to the government.*)

2. One who takes his own property and exchanges it for government property will be punished in the same way. (*His own property is forfeit to the government.*)

#### Article 126. *Privately Borrowing Government Property.*

Every supervisor and guardian who borrows things that belong to the government, such as miscellaneous objects, clothes, rugs and bedding, tools, or other objects for his own use, or lends them to another, will each, together with the one to whom [the article is] lent, receive 50 strokes of the light bamboo. If [the article is kept] more than ten days, each (*calculating the value of the borrowed item*) will be sentenced to the penalty for illegally obtained property reduced two degrees [Art. 345]. (*The penalty will be limited to 80 strokes of the heavy bamboo and penal servitude of two years. What has been borrowed will be levied on and returned it to the government.*) If there is injury or loss, [sentence] according to the law of destroying or losing government property [Art. 98] and [the offender] will be sentenced to make reparation. (*If there is intention to injure, then sentence according to the law of discarding or destroying government property* [Art. 98]. *Sentence as if it were non-manifest theft* [Art. 269], *adding two degrees. The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li. In the case of unintentional destruction and loss, reduce the penalty for discarding and destroying by three degrees to 80 strokes of the heavy bamboo and penal servitude of two years. Moreover, return [the property] and require recompense to be made.*)

## CHAPTER 6

### *Granaries and Treasuries: 2*

#### Article 127. [Improper] Transfer [of Funds, etc.] to Expenditure or Deposit [Accounts].

1. In every yamen that receives and expends money, grain, and such things, there are already established files (*in order to provide for examination*) and [a system of] matching controls [tallies] (*for making transfers. The one in charge of making transfers should make expenditures and payments in accordance with them* [the files and controls].) If the supervisors or guardians do not receive or spend correctly (*if [the action] is not in accordance with the files and controls*), the receipt or expenditure is still for government purposes. In such a case calculate (*the amount of the transferred*) illegally obtained property and sentence as if it were the supervisor or guardian himself stealing [Art. 264]. The punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li (*this is a public offence*). There will be no tattooing.

2. If (*the yamen*) does not deliver half of a sealed control [tally], but without authority issues a provisional permit (*for expenditures*), or issues a control [tally] but does not establish a file and makes a payment, and the granary or treasury (*in accordance with these provisional permits*) does not await [receipt of] the control, or, having already received it, do not make a record but make payment, the punishment is the same. (*For every yamen and person in charge, compute the amount of illegally obtained property expended, and sentence as if it were the supervisor or guardian himself stealing* [Art. 264].)

3. Whenever, in an area in which army troops are proceeding for attack or defence, and grain, fodder, and supplies (*should be provided*), a file will be established and prepared that will disclose everything, and the [supplies] must be immediately delivered. A report of all amounts [that are delivered] will be made to the superior officer for approval of the expenditure. These [deliveries] are not within the rule of unauthorized payments. The violator (*who does not immediately issue what is necessary*) will receive 60 strokes of the heavy bamboo.

#### Article 128. *Weighers in Granaries and Employees Who Obtain by Fraud.*

If the weighers or measurers or [temporary] employees (*if they are hired, they are treated as guardians*) of granaries or treasuries, [salt or other] works, [tax-collecting] offices, [government manufacturing] units, or courts [such as the Court of the Imperial Stud] obtain by fraud, (*or*) borrow or lend, (*or*) exchange (*these two words* [translated as one word 'exchange'] *mean to exchange one thing for another*) money or supplies belonging to the government, then sentence on the basis of the supervisor or guardian himself stealing [Art. 264]. If the hirer acts together [with those hired] and shares in the illegally obtained property, his punishment is the same. If he knows the circumstances and does not share in the property but collaborates (*with the employee and falsely states that a stolen thing still exists*) and makes a report and deceives the government and does not accuse [the employee], reduce (*the [penalty] for [the guardian] himself stealing* [Art. 264]) one degree. The punishment is limited to 100 strokes of the heavy bamboo. If he does not know, there is no punishment.

#### Article 129. *Deceitfully Issuing Government Supplies.*

In the case of an official or clerk attached to the direction of troops who deceitfully issues military supplies to himself, compute the amount of the illegally obtained property (*obtained by fraud*) and sentence as if it were non-manifest theft [Art. 269]. (*The amount taken belongs to the troops. It is not taken from the government. Therefore, the offence is dealt with as if it were non-manifest theft* [Art. 269]. *If there are troops who have run away or are already dead, and he does not deduct [for them], but takes [their portion] for himself, sentence him on the basis of the ordinary person stealing government supplies* [Art. 265]. *If there is someone who is deputed to make expenditures and he fraudulently issues property to himself, sentence on the basis of a supervisor or guardian himself stealing* [Art. 264].) There will be no tattooing.

#### Article 130. *Mutual Surveillance [Among Those Responsible for] Money and Grain.*

1. All officials and clerks, wardens, watchers, [*can lan*], guards, warehouse boys, and measurers of granaries and treasuries, [tax-receipt] offices,

and [salt and other] works, must mutually watch one another. If they know of a fraudulent taking, a theft, or a borrowing or lending of government moneys or supplies, [and if] when the latter have left the granary or treasury, they conceal and do not report the matter, or if they intentionally permit it to happen, they will receive the same penalty as the offender (*up to the penalty of death, which will be reduced one degree*). Those who make mistakes in surveillance will [receive that penalty] reduced three degrees. The penalty is limited to 100 strokes of the heavy bamboo.

2. If officials or clerks prepare a fraudulent file for [improper] transfers to and deposits in expenditure and deposit [accounts] [Art. 127] or issue fraudulent settlements [Art. 123] (*cases for which there are special laws*), the measurers, warehouse boys, or chief wardens [*lan tou*] who do not know will not be punished.

#### Article 131. *Not Discovering Theft in Granaries and Treasuries.*

Whenever someone (*who is not a supervisor or guardian*) leaves a granary or treasury, and the guardian does not search him, he [the guardian] will be punished with 20 strokes of the light bamboo. If, because he is not searched, it comes about that a stolen article leaves the granary or treasury and [the theft] is not discovered, reduce the penalty for theft [Art. 269] two degrees. If a person on duty during the night watch does not discover the theft, his penalty will be reduced three degrees. If the granary and treasury officials, wardens, measurers, and warehouse boys who are assigned to be on duty at night in the warehouse (*who are not on watch* [at the time of the theft]) do not discover the theft, reduce the penalty five degrees. Moreover, the punishment is limited to 100 [strokes] of the heavy bamboo. In each case, if he permits it intentionally, he will receive the same penalty as for theft (*up to death which will be reduced one degree*). If the theft is by force, there is no punishment. (*In the cases of mutual surveillance* [Art. 130] *or failing to discover a theft* [this article], *the officials and clerks are both guilty of public offences and will remain in the service. When they conceal and do not report or intentionally let* [the thief] *go as in* [this article], *this is a private offence, and they are removed from service.*)

#### Article 132. [Officials and Employees Must] *Wait Until the Expenditure of Money and Supplies [is Completed]; the Unauthorized Opening of Official Seals.*

1. Every granary and treasury official, warden, measurer, and warehouse boy who has fulfilled his required term and should be replaced (*is not permitted to depart*). As to the money, supplies, and official property which he has received, he is ordered to wait (*and attend until*) these are expended (*paid out*) and completely exhausted. If there are no shortages, only then is it permitted (*for officials and wardens*) to leave their position or employment (*and for measurers and warehouse boys to return home*). As for things which must be transmitted [from official to official] indefinitely, the supervisory officials and clerks should investigate thoroughly [by means of] a physical inventory. They are not permitted simply to transfer them by designating the container or the warehouse [in which the objects are kept]. Those who violate this [Article] will receive 100 strokes of the heavy bamboo.

2. If government property (*which has been placed in granaries or treasuries*) has been sealed, and its custodian, without requesting the official who sealed it (*to observe and verify* [that the original seal was in place at the time of opening] *opens it without authority, he will receive 60 strokes of the heavy bamboo. If, in the case of waiting until all supplies are exhausted, or in the case of opening of seals without authority, there is theft, deceit, or other kinds of fraud,* [these acts] *must be punished with the penalty for the more serious* [offence] *and* [the stolen property] *levied on for the government.*)

#### Article 133. *Irregularities in the Issuance or Receipt of Government Property.*

1. In every case of the issuance or receipt of government property from a granary or treasury, when it is proper to issue old things and new things are issued (*so that the value is excessive*), or it is necessary to obtain top quality and bottom quality is received (*so that the value* [of the goods] *is deficient*) etc., or if the responsible official agrees to hire or agrees to buy (*for public purposes*) and does not immediately pay the price, or if the price that is paid is either more or less than the actual amount of (*the price* [agreed upon]), compute (*as set out above*) the deficiency. (*When it is proper to receive top quality and low quality is received, or, in the case of*

*purchasing or hiring, when the price is not immediately paid, or when the price is immediately paid it is decreased and not correct, in each case there is a 'deficiency' [or compute] the 'excess' [in the price]. (When it is proper to issue old goods but new goods are issued, or when the price for sale or hire is increased and is not correct, in each case there is an example of 'excess' in the price. (Calculate the deficiency or the excess), and punish for illegally obtained property [Art. 345]. (Since the money and supplies have not gone into [the offender's] pocket and the hire and purchase do not serve his private purposes, the punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years. The illegally obtained property is given to the government or the owner.)*

2. If it is a matter of salaries whose payment is not yet due but they are paid in advance, the punishment is the same.

3. If supervisory officials and clerks (*in all the above cases*) know [of the offence] and do not report it, they receive the same punishment. If they do not know, they are not punished.

**Article 134. Causing Delays or Difficulties in [Carrying Out the Process of] Receiving and Issuing [Government Property].**

1. In every case of the receipt and issuance of government property, where the responsible officials and clerks without good cause (*pay close attention to those words* [without good cause]) cause delays or difficulties, and do not immediately take receipt or make payments, for one day, punish with 50 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 60 strokes of the heavy bamboo and penal servitude of one year.

2. When the doorkeepers cause delays or difficulties (*when they do not permit entry, count the days* [of delay] *and punish accordingly*), the punishment is the same.

3. If the persons who are to receive and deliver things arrive one after the other, and the officer in charge does not receive and issue in accordance with their original order (*of arrival*), he will receive 40 strokes of the light bamboo.

**Article 135. Gold or Silver Delivered Must be of Standard Fineness.**

Every time there is receipt of any sort of tax (*paid to the government*) or when various objects of any sort are sold, the gold or silver which is delivered must be of standard fineness. If the quality does not meet that standard, then the supervisory officials and clerks (*as well as*) the artisans (*in the assay office or the smelter*) will each receive 40 strokes of the light bamboo. They are liable to reimburse the government in equal shares [for its losses]. (*If officials obtain [property by] fraud, they will be punished on the basis of the supervisor or guardian [himself] stealing* [Art. 264]. *If they know the circumstances and aid the matter and intentionally do not receive metal of standard fineness, sentence for illegally obtained goods* [Art. 345].)

**Article 136. Deterioration of Goods Placed in Granaries and Treasuries.**

1. As to all goods which are deposited in granaries and treasuries or are stacked together, if the guardians do not arrange them properly or do not cause them to be dried or aired on time so that they deteriorate, compute the (*value of the*) deteriorated items and sentence for illegally obtained property [Art. 345]. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years.*) They are liable to reimburse the government in equal shares for its losses.

2. If there is an unexpected rain which causes floods or if there is a fire which spreads to [the granaries or treasuries], (*if there should be a fire within the granaries and treasuries then, according to the law* [dealing with such fires], *there will be punishment of 80 strokes of the heavy bamboo and penal servitude of one year* [Art. 382]), or if there is robbery (*notice whether* [the theft] *is by force or stealth*)—matters that cannot be foreseen—and there are injuries or losses, send officials to investigate the matter and report the facts. If there is clear evidence [that the loss is caused by an unforeseen event], there is no offence and [the guardian] is not required to reimburse. As to a supervisor or guardian (*who is an official or clerk*) who takes the number of things that have been fraudulently obtained or borrowed or transferred [from one account to another wrongfully] and, availing himself of the excuse of theft, fire, and water, prepares a false file, or withholds or substitutes documents and registers and reports in such a way as to hide these matters from the government, (*hoping to avoid the*

penalty for these matters), compute the amount of illegally obtained property and punish on the basis of a supervisor or guardian himself stealing [Art. 264]. If an [official or clerk] in the same office knows [about the matter] and does not report it, he receives the same punishment. If he does not know, there is no penalty.

#### Article 137. *The Transmission of Government Property.*

1. In every place where there is the collection of taxes in money or silk, or the purchase of items for military needs, or the manufacture of military implements, etc., the department or district where this activity is going on will take delivery of [these items]. They will send officials or clerks continually to transport these objects separately according to their nature [e.g. silk and guns should be transmitted separately] to the prefecture. If the prefecture does not immediately take delivery and send a person to transport them, but compels those (*from the department or district*) to transmit directly to the provincial administrative commissioner, the said supervisory head official, chief officer, and chief clerk will each receive 80 strokes of the heavy bamboo. (*This is a public offence.*) If the provincial administration commission does not immediately transmit and receive [these items], but compels the prefecture to send them [directly] to the board, the supervisory head official, the chief officer, and the chief clerk [will receive] the same punishment. (*If the shipment was originally designed to be a direct shipment [without being retransmitted], do not use this law.*)

2. As for transport (*of the sort detailed above*) of government property, if the person in charge of the convoy of the direct shipment, as well as the carriers, do not arrange things according to the rules, so that there is an injury or loss, compute the amount of the injury or loss and sentence for illegally obtained property [Art. 345]. Order all of them to reimburse [the government] equally for the loss. If there is injury resulting from a ship encountering wind and waves, or if [the goods] are burnt by the spreading of a fire (*set by another*), or if there is robbery or any other unpredictable matter, petition the official having authority in the locality. He will appoint [someone] to investigate and report the facts. If the evidence is clear, [the persons in charge] will avoid punishment and will not be liable to repay. If there is deception (*regardless of the cause of loss or injury*), calculate the amount of the illegally obtained property, and sentence on the basis of a supervisor or guardian himself stealing [Art. 264].

3. In the case of one who, in transporting government property, does not deliver (*the original*) items themselves, but carries goods and money, and without authority obtains items at the place of delivery by purchase or exchange and delivers them to the government, calculate (*the profit from the purchase as*) illegally obtained property, and sentence on the basis of the supervisor or guardian himself stealing [Art. 264].

#### Article 138. *Proposing Sentences Incorrectly on the Seizure of Illegally Obtained Property.*

All of those who propose sentences of seizure of illegally obtained property, and who, as to property that is to go to the government, [decide] to give it to the owner, or as to property that is to go to the owner, [decide] to give it to the government, will be punished for illegally obtained property [Art. 345]. The punishment is limited to 100 strokes of the heavy bamboo.

#### Article 139. *The Guardianship of Property in the Hands of the Government.*

In the case of all government property which must be delivered to individuals which has already been taken out of the granaries or treasuries but has not yet been delivered, or private property which has been offered for the service of the government which has already been sent to the government but which has not yet entered the granary or treasury (*all these things are government property*) but there are persons who are serving as temporary guardians [who are guarding it for the] government (*the office that has jurisdiction has delegated persons to guard [the property]*), if there is obtaining by fraud, borrowing, or lending, calculate the value of the illegally obtained property (*that has been taken*), and sentence on the basis of a supervisor or guardian himself stealing [Art. 264]. (*If the temporary guardians are not the ones who defraud, sentence on the basis of an ordinary person stealing property from a granary or treasury [Art. 265]. If the property has not yet been paid in but it is wrongfully taken and used, then [the community tax] prompting agency, the li na, and the bao-xi, will each be judged in accordance with the [rule for those who] obtain goods and hide them [Art. 121] or [illegally] gather [the funds of others*

to pay their taxes] [Art. 122], or obtain property in fraud of the government. This article may not be generally applied [to these cases].)

**Article 140. Hiding Households and Property Which [have Been Confiscated and] have Become the Property of the Government.**

1. Apart from the cases of plotting rebellion or treason [Arts. 254 and 255] and illegal cabals<sup>3</sup> which are within the Ten Great Wrongs [Art. 2] in which the seizure and confiscation of persons and property are in accordance with the provisions of the law, if the law does not include a provision [for confiscation], the wife and children and property are not to be seized and confiscated. Any violation of this provision will be punished according to the law of intentionally increasing someone's offence to an offence entailing exile [Art. 409]. (If [the property or persons] have been seized but have not yet become government property [e.g. by proper registration], treat them as property that has not yet become government property and reduce the penalty one degree.)

2. If, in making the inventory of the household and property that is to be confiscated for the government, individuals are hidden and not reported, calculate the number [of such persons] and sentence on the basis of hiding adults [from registration] [Art. 75]. If fields are hidden, compute the [area] of the fields and sentence on the basis of hiding fields and produce [Art. 90]. If money or objects, houses, or livestock are hidden, punish for illegally obtained property [Art. 345]. Each punishment is limited to 100 strokes of the heavy bamboo. The concealed persons and property will be forfeit to the government. The punishment will be inflicted on those who make the [false] reports. (The persons who were concealed will not be punished nor will [their penalty for any other offence] be increased in severity. This is because they are the persons and property of [the offender] himself.)

3. If the community head agrees to the concealment, or the responsible officials and clerks know the circumstances, they receive the same penalty. Calculate the value of the hidden property. If [considered as illegally obtained property] it entails a penalty greater (than 100 strokes of the heavy bamboo), punish for illegally obtained property [Art. 345], fixing the penalty [according to the value of] the whole.

<sup>3</sup> Illegal cabals are not within the Ten Great Wrongs but are dealt with in Art. 58.

4. If consideration has been received, calculate the value of the illegally obtained property and punish on the basis of receiving consideration and causing perversion of the law [Art. 344] in each case applying the heavier penalty. (In sentencing on the basis of causing perversion of the law according to the heavier penalty, distinguish between [an offender] who is on the government payroll and one who is not.) If he [simply] fails to discover the matter and report it, reduce [the penalty] (from that for those who make reports [para. 2 above]) three degrees. The punishment is limited to 50 strokes of the light bamboo.

## CHAPTER 7

### Taxes [Ke Cheng]

*(Ke means the tax in money on goods. Cheng means that goods are divided into those of high or low value. The Ke varies in amount as the yield from a field varies [i.e. Ke-cheng is an ad valorem tax].)*

#### Article 141. *The Salt Laws.*

1a.<sup>4</sup> Everyone who commits the offence of privately (*without a licence*) engaging in the salt trade [i.e. smuggling salt] (*this [offence] is committed when there is clear possession of such goods; it is not necessary to calculate the quantity [of salt traded]*) will receive 100 strokes of the heavy bamboo and penal servitude of three years. If (*he is carrying*) military weapons, add one degree ([i.e.] *exile to 2000 li*). If the trader falsely accuses a law-abiding person, add three degrees ([i.e.] *exile to 3000 li*). If he resists arrest, he will be beheaded (*with delay*). The salt, wagons, ships, and draft animals will be forfeit to the government. The guide (*along the road*), (*the weigher*), the broker, the one who harbours and hides (*the salt smuggler*), and the one who stores (*the smuggled salt [en route]*) will all receive 90 strokes of the heavy bamboo and penal servitude of two and a half years. (*Those who are hired*) to carry [the goods] with a pole or to haul them in carts or on animals (*these are not the same as those who carry on their shoulders or on their backs mentioned in the sub-statute [Art. 141.5, i.e. traders in a small way]*) will receive 80 strokes of the heavy bamboo and penal servitude of two years. If one who is not bound [by office] to do so, accuses and seizes someone, give him the privately traded [smuggled] salt which is seized as a reward. (*If, among a group [of smugglers], there is (one who) confesses, he too will escape punishment and will be rewarded. (If one man himself commits the offence and confesses, he merely escapes punishment. He is not rewarded. Moreover levy on the original illegally obtained salt.)*)

<sup>4</sup> The numbering system within this article is different from that in the others, and somewhat confusing, so it has been changed.

1b. If (*private trade in salt*) is discovered, only handle the person and salt that are now in custody. (*If salt is seized but no people are caught, do not pursue [the smuggler]. If a person is caught but no salt [is seized], do not punish.*) The official having jurisdiction of the matter is not permitted (*to listen to*) indirect accusations [by those seized]. In the case of a violation, (*the official or clerk*) will be punished on the basis of intentionally increasing the sentence of a person [Art. 409]. (*This means that if a person and salt are seized together, merely deal with that which is present. If there is seizure of the smuggled salt, without any offender, the salt is forfeit. It is not necessary to pursue and investigate.*)

2. Everyone employed in a salt works, such as a male adult who refines the salt who, in addition to the quota of salt [which he must deliver to the government] (*for the year*), illicitly takes salt away from the works [for himself] or privately boils [refines] salt and sells it, will be treated the same as a private dealer in salt [Art. 141.1a. i.e. a smuggler]. If the (*said responsible*) supervisor of the salt works knew the circumstances and intentionally permitted the action, or joined in the trade [of salt], he will receive the same penalty as the one who broke the law [the smuggler].

3. In the case of a married woman who is guilty of privately trading in salt, if her husband is at home, or if her son knows the circumstances, then punish the husband or son. If, although there is a husband, he has gone to a distant place, or if the son is young and weak, then only punish the woman. (*Sentence to 100 strokes of the heavy bamboo. The remainder of the punishment may be redeemed in money.*)

4. Everyone who buys or consumes smuggled salt will receive 100 strokes of the heavy bamboo. If he sells it, sentence him to 100 strokes of the heavy bamboo and penal servitude of three years.

5. Every civil or military yamen which has the responsibility to manage salt affairs, or to patrol for and apprehend salt smugglers, which apprehends a salt smuggler, will immediately return him to the office having jurisdiction for investigation. The (*apprehending*) yamen is not permitted to carry on the interrogation without authorization. If there is an official having jurisdiction who connives with the agency which originally apprehended [the smuggler] to release him, he will receive the same penalty as the offender. If he receives consideration, calculate the amount, and sentence on the basis [of receiving property] and causing perversion of the law [Art. 344]. Sentence in accordance with the heavier (*sentence for the offence*).

6a. Every civil and military yamen which has the responsibility to manage salt affairs and to patrol for and apprehend salt smugglers will devise methods for dispatching persons constantly to patrol and prevent

the private salt trade in places within their jurisdiction, particularly the important places near the [salt] works. If some slip through, the official of the control point and the person deputized to patrol [against] salt [smuggling] will, if it is a first offence, receive 40 strokes of the light bamboo. If it is repeated, 50 strokes of the light bamboo. For the third offence, 60 strokes of the heavy bamboo (*a public offence*). He remains in the service. If he knows the circumstances and intentionally permits and allows [the acts to take place] or permits the soldiers to accompany those engaged in selling, he will receive the same penalty as the offender. (*This is a private offence*). If he receives consideration, calculate the amount and sentence on the basis of [receiving consideration and] causing perversion of the law, according to the heavier punishment [Art. 344].

6b. If the patrol appropriates the smuggled salt and does not deliver it to the government, the penalty is 100 strokes of the heavy bamboo and penal servitude of three years. If he falsely accuses a law-abiding person, add three degrees (*i.e. 100 strokes of the heavy bamboo and exile to 3000 li*).

7a. In every case where government salt is transported, there will be a licence which, according to the total amount, will fix the number of catties in each bag and, moreover, fix the permitted amount of waste in the salt for such quantity. When an inspection point is passed, then pull out [one bag] and weigh it on the scale [to see if the weight is] in accord with the amount (*listed in the licence. Pick up bags at random and weigh to see how heavy they are.*) If excess salt is being carried, this is to be judged under the same law as smuggling salt [para. 1 above].

7b. If the licensed salt merchant passes the inspection point and is not sampled and weighed and given a stamp (*on the licence*) by [the customs officer], the [merchant] will receive 90 strokes of the heavy bamboo, and be brought back, and [the goods] will be checked and inspected (*item by item. Thoroughly check all the salt and inspect it. If there is surplus salt, sentence on the basis of smuggling salt* [above para. 7a].)

8a. In the case of every merchant who (*having a licence*) deals in lawful salt, (*he must sell it in accordance with the licence*). It is not permitted that the salt and the licence be separated. Any violation is treated like smuggling.

8b. Everyone who has sold salt, and who does not within ten days return and surrender the licence, will receive 40 strokes of the light bamboo.

8c. If someone takes an old licence (*and does not surrender it*) but makes a copy [and uses it] to engage in the salt trade, he will receive the same penalty as for smuggling salt.

9. Those who transport government salt and the salt workers who transport the salt to the warehouse and who carry military weapons, and do not use government ships to convey it, will be treated the same as those who privately sell salt [smugglers].

10. Every merchant who takes (*inspected and licensed*) government salt and mixes sand or dirt in it and sells it will receive 80 strokes of the heavy bamboo.

11. Everyone who takes licensed government salt and does not sell it in the area (*designated*) for [the sale of this] salt, but goes to another area [i.e. political unit], a place where it is not permitted to go and sell, will receive 100 strokes of the heavy bamboo. One who knows and buys it will receive 60 strokes of the heavy bamboo. If he does not know, he is not punished. The salt is forfeit to the government.

#### Article 142. Supervisors or Powerful Persons [who use their influence] to Trade in Salt.

All officials who are supervisors (*of the salt law*) who fraudulently use a (*false*) name, as well as influential persons (*in the capital or outside*) who deposit money or supplies (*in a granary or treasury*) in order to buy salt licences and tallies (*and withdraw government salt and sell it*) and injure the interest of the people, will receive 100 strokes of the heavy bamboo and penal servitude of three years. The salt is forfeit to the government (*the sale licence and the tallies will be confiscated*).

#### Article 143. Obstructing the Salt Laws.

In every case where a trader (*who goes to the government*) and buys a salt licence and tally and who does not himself go to the works and obtain the salt but meantime resells [the licence], increasing the price [of the salt] (*so that the resales become more and more every day and the direct purchases fewer and fewer enabling fraud to increase, and because of this*) the [operation of] the salt laws is obstructed and injured, the buyer and the seller will each receive 80 strokes of the heavy bamboo. The broker-guarantors will receive penalties reduced one degree. The salt (*which the buyer got by means of the transfer* [of the licence]) and the price (*for which*

*the seller resold*) will be forfeit to the government. As for the shops (*on the streets where salt is sold*) which buy (*from the salt merchants and then*) sell at retail, do not use this law.

**Article 144. *The Private Sale [Smuggling] of Tea.***

Everyone who in a criminal manner privately [deals in] tea will be sentenced in the same way as one who [deals] privately in salt [Art. 141]. One who takes an expired licence which has been examined, clipped, and returned and enters the mountains, and, fraudulently using [the expired licence makes a copy of it, and] (*obtains a delivery of*) tea, will be sentenced as for privately dealing in tea. (*As for the clipping of a corner: whenever one passes a government station and is inspected, they take the licence and cut off a corner. This is to eliminate the wrongful act of fraudulent reuse.*)

**Article 145. *Privately Dealing in Alum.***

All who privately process alum and sell it will be sentenced in the same way as for privately dealing in salt [Art. 141]. (*In every place where alum is manufactured, there is a tax on the amount of alum that is made. [The alum] may only be sold when the government official or clerk in charge has given a licence.*)

**Article 146. *Concealing [Goods to Evade] Taxes.***

1. Every merchant who conceals [goods that give rise to a] tax and does not pay the scheduled amount of taxes will receive 50 strokes of the light bamboo. Half the property will be forfeit to the government. Divide the amount of forfeited property into ten portions. Give three portions to the accuser as a reward. If the officials and guards assigned to collect taxes themselves catch the person, there is no reward. If someone passes a [customs] control point and the form [which serves as the basis for the levying of the tax] is not [examined] and cancelled, [the officials, clerks, or guards] will receive the same punishment [as the merchant receives for] hiding

[property subject to] tax [above]. (*Those merchants and artisans who pass through a customs point must first obtain a numbered government form and list the goods. The tax is set according to the [nature and quantity] of the goods, based on an examination of the form.*)

2. If someone buys animals and does not pay the sales tax on the contract, the punishment is also the same. Moreover levy on half the price from the buyer. This is forfeit to the government.

**Article 147. *Maritime Merchants Who Hide Goods [that are subject to tax].***

Every merchant junk (*large ship*) that comes to land will immediately file a complete and accurate report of the merchandise with the government which will assess the tax. If, when a merchant lands at a port, he [goes to] the houses of local merchants and brokers and does not report, the punishment is 100 strokes of the heavy bamboo. If he reports, but not completely, the punishment is the same. The objects (*which are not reported or are not fully reported*) will, moreover, be forfeit to the government. A person who [lets him] land and hide the goods will receive the same penalty. The one who reports and catches [the evader] will receive a reward of 20 taels of silver from the government.

**Article 148. *Households with Shortages in the Payment of Taxes.***

1. As to tax liability incurred among the people during the year, such as the tax for tea [Art. 144] or salt [Art. 141] or the tax on merchants [Art. 146] and other types of taxes, if, at the end of the year, what has been paid is not sufficient, calculate the deficiency. Divide [the tax] into ten portions. [If the deficiency amounts to] one tenth, [of the total tax] the punishment is 40 strokes of the light bamboo, for each [additional] tenth add one degree. The punishment is limited to 80 strokes of the heavy bamboo. Levy the tax and pay it to the government.

2. If the officials of the tea and salt transportation offices, the salt works, the tea commission, the offices of tax collectors, and the fishing tax offices do not proceed diligently (*to press for*) the levying of taxes (*according to the schedule*), and if, at the end of the year, in comparison with the previous year's tax amount, there is a shortage (*lack*) in payments (*a*

*deficiency*), also divide [the tax for the previous year] into ten portions. For [a deficiency of] one portion, sentence to 50 strokes of the light bamboo. For each [additional] portion, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. Order levying for the deficiency and payment to the government.

3. If (*the households have already paid and government officials and staff personnel*) have hidden [the payments] (*and do not enter them into the books in order to*) take them fraudulently, or to borrow and use them, then calculate the amount of the illegally obtained property and sentence on the basis of a supervisor or guardian himself stealing [Art. 264].

## CHAPTER 8

*Monetary Obligations*Article 149. *Taking Interest in Violation of the Prohibitions.*

1. In every case where there is a private loan of money or a pawn transaction, and interest is received monthly, the interest may not exceed three tenths per month. Even though the months and years [of the loan] are many, the [total] interest may not exceed the principal. In the case of a violation, sentence to 40 strokes of the light bamboo. If the excess, when calculated as illegally obtained property, results in a sentence more serious (*than 40 strokes of the light bamboo*), sentence for illegally obtained property [Art. 345]. The punishment is limited to 100 strokes of the heavy bamboo.

2. If a supervisory official or clerk, within the area in which he has jurisdiction, lends money or engages in a pawn transaction (*there need not be excessive interest; as soon as there is a violation* [of this rule]), he will be punished with 80 strokes of the heavy bamboo. If he violates the prohibitions on interest, calculate the amount of the excess interest as illegally obtained property. If [the penalty for receiving consideration in this amount and not causing perversion of the law, Art. 344] is more serious (*than 80 strokes of the heavy bamboo*), sentence according to [receiving consideration] and not causing perversion of the law. (*If the* [sum comes from] *several owners, add it all together, take half and fix the penalty. If* [the lender] *receives a salary from the government and the total is 30 taels, or if he does not receive a salary and it is 40 taels, sentence to 90 strokes of the heavy bamboo. For every* [additional] *10 taels, add one degree. The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) Moreover, levy on the excess interest, and give it to the owner [borrower]. (*This refers to both common people and officials.*) If the one obligated to make payment on a private obligation violates his agreement and does not return the [amount due], for 5 taels and above and a delay of three months, sentence to 10 strokes of the light bamboo. For each [additional] month, add one degree. The punishment is limited to 40 strokes of the light bamboo. For 50 taels and over and a delay of three months, sentence to 20 strokes of the light bamboo. For every [additional]

month, add one degree. The punishment is limited to 50 strokes of the light bamboo. For 100 taels or above and three months delay, sentence to 30 strokes of the light bamboo. For each [additional] month, add one degree. The punishment is limited to 60 strokes of the heavy bamboo. Moreover, levy on the principal and interest, and give them to the owner [the lender].

3. If a powerful or influential person (*in regard to those who are obligated to him because of a breach of contract*) does not prosecute [a matter] before the official having jurisdiction, but, enforcing his private obligation, takes the domestic animals and property of another away by force, he will receive 80 strokes of the heavy bamboo. (*If he does not take excess interest, permit [the obligor] to redeem [the items taken] but [the obligee] is not to be levied on [for them].*) If when the price of the (*domestic animals and property that have been taken away by force*) is calculated, it exceeds principal and interest, calculate the excess, (*and if the punishment [for that amount as illegally obtained property] is greater than 80 strokes of the heavy bamboo*), sentence for illegally obtained property [Art. 345]. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years.*) As (*for the excessive*) quantity, levy and return to (*the obligor*).

4. If the wife or concubine or the son or daughter [of the obligor] are taken in satisfaction of the debt, sentence to 100 strokes of the heavy bamboo. (*If there are forcible sexual relations, add one degree.*) If [the obligee] takes them forcibly, add two degrees ([i.e.] *70 strokes of the heavy bamboo and one and a half years of penal servitude*). If there are (*forcible taking and*) forcible sexual relations with a woman or girl, strangle (*with delay*). The persons who were (*given in payment or forcibly taken*) will be given back to their families. The private obligation will not be enforced.

#### Article 150. *The Consumption of Property Received in Deposit.*

One who has received in deposit the property or domestic animals of (*another*), and who, without authority, consumes them, will be punished for illegally obtained property [Art. 345], (*punish on the basis of the [amount of the] illegally obtained property in fixing the penalty*), reduced one degree. (*The punishment is limited to 90 strokes of the heavy bamboo and penal servitude of one and a half years.*) If he falsely claims that [the deposited property or domestic animals] are dead or lost, sentence as if it

were non-manifest theft [Art. 269], reduced one degree. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years. There will be no tattooing.*) Levy on the property, and return it to the owner. If there is clear evidence that the property was consumed or lost by flood, fire, or theft, or that the animals became sick and died, there is no punishment. (*If the one with whom property and domestic animals are deposited conceals them and refuses to admit [the deposit], he is sentenced in accordance with the law of fraud [Art. 274]. For example, if he transfers the animals or property to another[']s name] and claims they are lost or sold, then prosecute according to the Code's provision on simulating a deposit and selling feloniously [Art. 274].*)

#### Article 151. *Finding Lost Objects.*

1. One who finds a lost object or objects will deliver them to the government within five days. If they are government property, (*then the entire quantity [found]*) will be returned to the government. If they are private property, then [place a notice] asking people to claim them. [If someone claims them], give half to the finder as a reward and return half to the owner. If no one claims them within thirty days, give them all to the finder. If he does not (*within five days*) send them to the government, if they are government property, punish for illegally obtained property [Art. 345]. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years. The objects will be seized and returned to the government.*) If they are private property, reduce (*the penalty for illegally obtained property [Art. 345]*) two degrees. Half the objects will be given to the government, and half to the owner. (*If there is no owner, the whole will go to the government.*)

2. If, on public or private land, someone digs up a buried object (*that has no owner*), he is permitted to keep and use it. If it is an ancient object, a bell, a tripod, a tally, a seal, or any rare or unusual object (*not the sort of thing that is appropriate for [ordinary] people to possess*), then, within thirty days, [he should] send it to the government. If there is any violation [of this rule], sentence to 80 strokes of the heavy bamboo, and the item will be forfeit to the government.

## CHAPTER 9

## Markets

Article 152. *Privately Filling the Office of Commission Agent and Port-Master.*

Commission agents of all sorts in cities or villages, as well as port-masters for ships, will be selected from substantial persons [those who could sustain loss and give security] to fulfil the requirements of brokerage. The government will issue a sealed register in which they will record (*each month the arrivals*) of merchants and ships, with their names and places of registration, the travel permits and identification [trade names], and a listing of the goods and their quantities. Every month [they] will go to the government and present [these books] for examination ([showing] *the origin and licences of the goods*. If they are not appointed by the government, but) take the job privately on their own initiative, sentence them to 60 strokes of the heavy bamboo. All commission moneys received are forfeit to the government. The official commission agents and port-masters who conceal [such an act] will receive 50 strokes of the light bamboo and their business will be terminated.

Article 153. *The Setting of the Price of Merchandise by Market Supervisors.*

1. When the (*commission*) agent sets (*decides on*) the price of merchandise, if he takes that which is expensive (*to be cheap*) or that which is cheap (*to be expensive*), and sets an unjust price, then estimate the excess or deficiency in the price, and sentence for illegally obtained property [Art. 345]. (*For 1 tael or below, sentence to 20 strokes of the light bamboo. The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years*). If he takes it for his own use, sentence as if it were non-manifest theft [Art. 269]. (*Set the penalty according to the law.*) There will be no tattooing.

2. If, in [determining] the penalty for an offender, (*when the penalty is based on the amount of illegally obtained property*), [the official] estimates

the amount of illegally obtained property (*as too much or too little*) incorrectly, resulting in a sentence that is inadequate to or excessive for the offence, sentence on the basis of intentionally increasing or decreasing a sentence [erroneously] [Art. 409]. (*If the [offender's] penalty has not been executed, [his sentence] will be reduced one degree.*) If [the commission merchant] receives consideration (*from one who is guilty of the offence of obtaining property illegally because of estimating the price low and hence causing [the offender] to receive a lighter punishment [than was appropriate], or receives consideration from the persons concerned in the matter for estimating it too high*), calculate the amount, and sentence on the basis of [receiving consideration] and causing perversion of the law according to the heavier penalty [Art. 344]. (*Where there is no one receiving a government salary, sentence according to the law.*)

Article 154. *Monopolizing the Market.*

1. In all instances of the purchase and sale of all sorts of articles, where the two parties do not come to an agreement, but where there is one [party] who monopolizes the market and takes all the profit for himself, or where a trader makes an arrangement with a commission agent and they jointly formulate an illegal criminal plot whereby they sell (*their own*) cheap goods as valuable, or buy the valuable goods (*of others*) at a low price, sentence to 80 strokes of the heavy bamboo.

2. If one sees that another person is engaged in the purchase and sale [of goods] and [places himself] next to him and (*mixes up his own goods*) [with those of the other], raising or lowering the price, and comparing the prices of their merchandise so that this causes confusion between them, and [as a result] obtains a profit (*then, although the circumstances do not amount to a monopoly* [para. 1 above]), sentence to 40 strokes of the light bamboo.

3. If one has received a profit [in one of the above cases], then calculate the amount of the illegally obtained property, and if the amount is such (*that* [if it were theft] *the sentence would be more than 80 strokes of the heavy bamboo* [para. 1 above] or *40 strokes of the light bamboo* [para. 2 above]), sentence as if it were non-manifest theft [Art. 269]. There will be no tattooing. (*If the amount taken is small, then sentence on the basis of the penalties set out here.*)

Article 155. *Privately Constructing Hu [Corn i.e. Wheat Measures], Dou [Rice Measures], Scales, or Foot-rules.*

1. Everyone who privately constructs *hu* [corn, i.e. wheat, measures], *dou* [rice measures], scales, or foot-rules so that they are not correct and uses them in the market, or who takes a government-issued *hu*, *dou*, scale, or foot-rule and makes it false by increasing or decreasing it, will be sentenced to 60 strokes of the heavy bamboo. The government artisan [who constructed or altered it] receives the same [penalty].

2. If [measures] are issued by the government that are not [constructed] in accordance with the rules, (*the officials, clerks, and artisans* [who issue or construct them]) will receive 70 strokes of the heavy bamboo. If the inspecting official is negligent in his inspection, reduce his penalty (*from that originally imposed on the government official, clerk, or artisan who constructed them*) one degree. If he knows the circumstances, he receives the same penalty.

3. If, in the market, someone uses measures—*hu*, *dou*, scales, or foot-rules—on which, although they are correct, [the marks on the measures] have not been inspected and stamped by the government ([though it appears to have an official stamp] *the seal is privately made*), sentence to 40 strokes of the light bamboo.

4. If the officials or clerks in the granary or treasury without authority increase or decrease the government-issued *hu*, *dou*, scale, or foot-rule and receive or pay out government property incorrectly (*payments into the government are made on the basis of increased* [measures] *disbursements are made on the basis of reduced* [measures]), sentence to 100 strokes of the heavy bamboo. Take the item that has been increased or decreased, and calculate the amount of the illegally obtained property. If [the punishment for that amount of illegally obtained property] is greater (*than 100 strokes of the heavy bamboo*), punish for illegally obtained property [Art. 345]. If he takes (*the excess or shortage*) and converts it to his own use, sentence on the basis of a supervisor or guardian himself stealing [Art. 264]. (*Cumulate the amount taken. Do not differentiate between principal and accessory. Adjudge the penalty according to the law.*) The artisan will receive 80 strokes of the heavy bamboo. If the supervisor knows and does not report, he will receive the same penalty as the original offender. If he [simply] fails to discover and investigate, reduce three degrees. The punishment is limited to 100 strokes of the heavy bamboo.

Article 156. *Articles of Daily Use, or Cotton or Silk Cloth that are not Manufactured in Accordance with the Rules.*

Every person among the people who manufactures articles for daily use that are not firmly constructed and correctly made, or [who manufactures] cotton or silk cloth, etc. that is spoilt or thin or short or narrow, and sells them, will each receive 50 strokes of the light bamboo.

PART IV  
[Laws Relating to]  
*The Board of Rites*

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## CHAPTER I

### *Sacrifices*

#### Article 157. *Sacrifices.*

1. In the case of the great sacrifices to the god of heaven and the god of the earth, to the god of land and the god of grain, as well as those offered in the temples dedicated to the imperial ancestors, if the one who is in charge (*the Court of Imperial Sacrifices will, at the time of the approach of the sacrifice, make preparations for fasting, at the approach of the time for fasting, it will make preparations for purification; at the approach of the time of purification, it will give notice*) does not give notice to the yamen of the approach of the period and day of sacrifice (*to inform them*), he will receive 50 strokes of the light bamboo. If (*because he did not give notice*) someone neglects or makes a mistake in some matter, he will receive 100 strokes of the heavy bamboo. If he [the yamen official] has already received notification and makes the mistake, then punish the one who makes the mistake. (*He will also receive 100 strokes of the heavy bamboo.*)

2. If (*the imperial order as to purification and fasting has been transmitted to the officials and*) the officials have begun the purification ritual, those who participate in ceremonies or rituals for the deceased, visit the sick, date and sign documents awarding the death penalty, or attend feasts, will all be fined one month's pay. If (*the official in charge*) knows (*that one of the officials*) is in mourning for someone in the fifth degree or above, or has received a punishment of 100 strokes of the heavy bamboo, and he designates [that official] to participate in preparing the ceremony, or designates him to participate in the ceremony, the penalty is the same. If he does not know, there is no penalty. If those who are in mourning or who have committed an offence do not themselves declare this fact, the penalty is the same. Those officials who have begun the purification and who fast (*outside their offices*), and do not stay in a purified house, and those who fast (*inside their offices*) and do not sleep in their own offices, will also be fined one month's pay.

3. If the animals destined for the great sacrifices as well as the jade, silk, and grain are not in accordance with the rules, [the official in charge will

receive] 50 strokes of the light bamboo. If one of these things is lacking or insufficient, the punishment is 80 strokes of the heavy bamboo. If the altar is completely lacking [in such things], sentence to 100 strokes of the heavy bamboo.

4. If [while] the animals designated for the great sacrifices (*are being purified*), the one in charge (*the official in charge of the animals*) of the feeding of the animals does not [proceed] in accordance with the rules, so that they become thin or are injured, for one animal, sentence to 40 strokes of the light bamboo. For each [additional] animal, add one degree. The penalty is limited to 80 strokes of the heavy bamboo. If death results, add one degree.

5. If there is a violation [of the rules] in connection with the superior sacrifices, the penalty is the same. (*The other provisions may be applied by analogy.*)

#### Article 158. *Destroying the Structures Dedicated to the Great Sacrifices.*

1. In every case where the structure [the elevation on which the sacrifice is made] for the great sacrifices is destroyed (*regardless of whether it is intentional or by mistake*), the punishment will be 100 strokes of the heavy bamboo and exile to 2000 li. If it is the gate, reduce two degrees (*to 90 strokes of the heavy bamboo and two years of penal servitude*).

2. Those who have thrown away or destroyed objects consecrated to the spirits honoured in the great sacrifices (*as well as [objects used in] temples devoted to the imperial ancestors*) will receive 100 strokes of the heavy bamboo and penal servitude of three years. (*Even though it is not a serious injury, it must still be punished.*) If it is a case of loss or injury by mistake, the punishment will be reduced three degrees (*to 70 strokes of the heavy bamboo and penal servitude of one year. If the value [of the object] is high [so that the punishment under Art. 98 would be higher], sentence on the basis of discarding or destroying government property [Art. 98].*)

#### Article 159. *Making Sacrifices to the Gods Recorded in the Book of Sacrifices.*

In every (*prefecture, department, and district*) the gods of the land and grain, the spirits of the mountains, streams, wind, clouds, thunder, rain,

and the like, as well as the holy emperors and enlightened kings, loyal officials, and martyrs who are recorded in the book of sacrifices [in the Collected Institutes of the Great Qing Dynasty] (*of former times and of this area*) are gods and spirits to whom sacrifices should be made. The local official having jurisdiction will erect tablets on which will be written the names of the gods and the dates of their sacrifices. These will be continually hung in a clean pure place, and sacrifices will be offered according to their schedules. If, when the time comes, he neglects to offer a sacrifice (*the officials and clerks having jurisdiction*) will receive 100 strokes of the heavy bamboo. If he offers a sacrifice to a god to whom he ought not (*one not recorded in the book of sacrifices*), he will receive 80 strokes of the heavy bamboo.

#### Article 160. *The Tombs of the Emperors and Kings of Former Dynasties.*

All of the tombs of the emperors and kings of former dynasties as well as the tombs of ancient saints and sages, of loyal officials, and of martyrs (*must be watched over by the official having jurisdiction*). It is not permitted to gather firewood or to till the land on them, or to pasture cattle, sheep, or other animals on them. Anyone who violates this [provision] will receive 80 strokes of the heavy bamboo.

#### Article 161. *Blaspheming the Spirits.*

1. In every private household where there is a calling on heaven, the worship of Ursa Major, a burning of incense at night, or the lighting of the lantern of heaven (*to call on heaven*) and the seven lamps (*to worship Ursa Major*), and there is blaspheming [of the worship of] the spirits, [the blasphemer] will receive 80 strokes of the heavy bamboo. If women commit these offences, punish the head of the household. If Buddhist or Taoist monks atone and fast, and arrange prayers and worship by offering up prayers written on [special] paper, and pray for deliverance from calamities of fire, they will receive the same penalty and will be defrocked. (*The serious thing is the worship and offering. If they merely atone and fast and pray for deliverance and do not offer up the prayers written on special paper, it is not forbidden.*)

2. If officials or households, military or civilian, permit or order their wives or daughters to go to Buddhist or Taoist temples to burn incense, they will be punished with 40 strokes of the light bamboo. The punishment will be inflicted on the husband or the [senior] male member of the household. If there is no husband or male member, the wife will be punished. If the superiors in the Buddhist or Taoist temples or the guardians of the gate do not forbid this, they will receive the same punishment.

**Article 162. Prohibitions Concerning Sorcerers and Sorceresses.**

1. In every case where sorcerers or sorceresses fraudulently call up evil spirits, or draw charms and chant into the water [i.e. throw water to form a circle while saying magic words; evil spirits cannot cross the circle], or make offerings to the sacred bird [*luan*—a sort of planchette—a sand table on which the spirit can write messages], and pray to the saints, calling themselves *duan gong*, or *tai bao*, or *shi po*, (*different names* [taken by sorcerers and sorceresses]), or falsely claim to be a society such as [one with the name of] *Mi Le Fu* [the Mattreya Buddha], the White Lotus Society, the *Ming Zun Jiao* [Enlightened and Respectful Society], the White Cloud Society, etc., all of which are heretical; or in the case of those who hide portraits [of heretical figures]; or those who burn incense and gather together, who gather at night and disperse in the day, simulate virtuous actions and incite the people, the principal will be sentenced to strangulation (*with delay*). The accessories will each receive 100 strokes of the heavy bamboo and exile to 3000 *li*.

2. If military personnel or civilians dress themselves up as gods and beat the gong and the drum to welcome the gods in a procession, the punishment will be 100 strokes of the heavy bamboo. The punishment will be inflicted on the principal.

3. If the community head knows [of these activities] and does not report them, he will receive 40 strokes of the light bamboo. Celebrations of the spring and autumn rituals and sacrifices among the people (*in praying and giving thanks*) are not covered by this rule.

CHAPTER 2

*Rules of Demeanour*

**Article 163. Preparing Medicine for the Emperor.**

1. In all cases where medicine for the Emperor is prepared, if, by mistake, the proper formula (*for treating the disease*) was not followed, or if mistakes were made in the instructions that are placed with a seal on the [packet of medicine], the physician (*through whose hands* [these mistakes were made]) will receive 100 strokes of the heavy bamboo. One who, in choosing and preparing [medicine for the Emperor's use], has (*by error*) not [selected] the best quality, will receive 60 strokes of the heavy bamboo. A cook who prepares the Emperor's meals, and in error violates food prohibitions, will receive 100 strokes of the heavy bamboo. If the food and drink are not clean, he will receive 80 strokes of the heavy bamboo. One who [mistakenly] selects [food] that is not the best quality will receive 60 strokes of the heavy bamboo. If (*the Emperor's medicine and the Emperor's food*) have not been tasted, sentence to 50 strokes of the light bamboo. The supervisory officials [for drugs and food] will each receive the penalty of the physician or cook, reduced two degrees.

2. If the examiner or supervisor [over drugs and food], or a cook or other person, mistakenly takes drugs into the place where the imperial meals are being prepared, he will receive 100 strokes of the heavy bamboo. Order him to eat the drug[s] he has brought. If the cook or other persons (*in the place where the imperial meals are cooked*) have violated [this rule], and the examiner and supervisor know of the act and do not report it to the Emperor, or if the official in charge of the door or the guard [simply] fails to search and inspect, he will receive the same penalty as the offender. The matters will immediately be reported [to the Emperor] to be dealt with.

**Article 164. Vehicles, Clothing, and [Other] Objects for the Use of the Emperor.**

1. In the case of vehicles, clothing, and other objects used by the Emperor, (*their guardians*) who store, repair, or maintain them contrary to

the rules will receive 60 strokes of the heavy bamboo. One who presents or sends something improperly to the Emperor (*he sends something that ought not to be sent*) will receive 40 strokes of the light bamboo. If the carriages or horses are not maintained or exercised, or if the harness and equipage is not sturdy and complete, sentence to 80 strokes of the heavy bamboo.

2. Anyone who is a guardian who borrows a vehicle, clothing, or other objects devoted to the use of the Emperor, or lends them to another, will, along with [in the latter case] the person who borrows, both be punished with 100 strokes of the heavy bamboo and penal servitude of three years. If he discards or destroys [such property], the punishment is the same. If (*in ordinary times, he, through idleness, neglects his duty and does not guard* [the object and it is] lost or mistakenly destroyed, reduce the penalty three degrees.

3. If a boat or ship for the use of the Emperor in an imperial progress is, as the result of error, not sturdily constructed, the government artisans will receive 100 strokes of the heavy bamboo. If [the vessels] are not well arranged and decorated, or if poles or oars for the ship are insufficient, punish with 60 strokes of the heavy bamboo. The penalty will be applied to the ones responsible (*those who have engaged in the construction work with their hands as well as those who supervised*). The examiner and supervisor [in charge of these ships and boats] will each receive the penalty of the artisan reduced two degrees. Moreover, the matter will be immediately reported to the Emperor to be dealt with.

#### Article 165. *Keeping and Hiding Forbidden Books.*

One who privately keeps and hides objects and devices used to observe the heavens (*instruments such as the xuan ji* [a device to observe the heavens], *the yu-heng, the instrument for the entire heaven* [an armillary sphere], *and the like* [all astronomical instruments]), diagrams or pictures of omens or prophecies (*books with charts of symbols that can be used to predict the tranquility or unrest* [of the Empire]) and [other] books which must be prohibited as well as (*paintings of*) likenesses of emperors and kings of former dynasties, gold or jade imperial tallies and seals (*and does not declare them to the government*), will receive 100 strokes of the heavy bamboo. Moreover, levy on the offender for 10 taels of silver, and give it to the accuser as a reward. (*The tools, utensils, and other objects will be forfeit to the government.*)

#### Article 166. *Clothing and Objects Bestowed by the Emperor.*

In regard to clothing and objects bestowed by the Emperor on officials, if the official commissioned [to do so] does not go personally to deliver them, but transfers them to another to give, he will receive 100 strokes of the heavy bamboo and be removed from the service without having the right to be reassigned.

#### Article 167. *Errors in Connection with an Assembly at the Court or a Congratulatory Ceremony.*

In the case of an assembly at the Court or ceremonies of congratulation or receiving imperial orders, if the one charged with the task of making an announcement in advance does not do so, he will be punished with 40 strokes of the light bamboo. If the official receives the announcement and fails [to attend or to go to receive the order, etc.], the punishment will be the same.

#### Article 168. *Failing to Observe the Rules of Demeanor.*

Everyone (*who participates in or assists*) at a sacrifice or at a ceremony in the imperial tombs, or at an assembly at Court, who, in carrying out the ritual, makes a mistake and fails to observe the rules of demeanour, will be fined one month's salary. If the official who supervises demeanour, and is supposed to call attention to it and report, fails to do so, the penalty is the same.

#### Article 169. *Violating the Proper Procedure for Making Responses [to the Throne].*

When officials who are in attendance at the Court are questioned by the Emperor, the highest official will proceed to answer first. The lesser officials will answer each in his turn [according to their ranks]. If someone answers out of turn, whether too early or too late, he will be fined one month's salary.

**Article 170. Preventing Someone from Attending an Audience at Court.**

In the case of any official who is in charge of demeanour and rites, who uses pretexts to prevent an official or other person from attending an audience at Court which he is supposed to attend and who does not immediately take him there, (*make a factual determination of the reason for the obstruction. When the circumstances are known, only then can he be punished with*) beheading (*with delay*). If a Grand Minister knows of this, and does not investigate [and find out what happened], he will receive the same penalty. If he does not know, he will not be punished.

**Article 171. Communicating in Writing or Orally with the Emperor.**

1. All gains or losses from national policies, the benefits or hardships of civilians and military personnel, and all activities that have as their aim the conferring of advantage or the elimination of harm should be reported face-to-face to the Emperor by [responsible] officials in the Six Boards for his consideration and disposition. The supervising secretaries, investigative censors, governors-general, and governors should each report his opinion. He should speak directly and not hide anything.

2. A high or low official in or outside the capital who has a matter that is not convenient for his office to handle may memorialize, setting out all the elements clearly and precisely. The office to which he is subject will seal and forward it. It will be decided by the Emperor. If [the official] knows [of the situation] and does not report it, but lets the matter delay for months and years, the matter will be investigated in the capital by the supervising secretaries and investigative censors, and in the provinces by the governors-general or governors. (*The offender will be punished on the basis of the law of there being a matter that should be memorialized and not memorializing* [Art. 69].)

3. In setting the matter out, it is necessary to express oneself directly and simply. Every matter should be set out with a heading [point by point]. It is not permitted to use empty ornamentation and complex phrases.

4. If a persuasive person uses the pretext of a memorial to the Throne to use clever phrases and coloured language in the hope of advancing himself, he will receive 100 strokes of the heavy bamboo.

5. If someone, in claiming that he [is appealing from] oppression,

borrow a sealed cover from a civil or military officer and forwards it, both the borrower and the lender will be beheaded. (*This is a miscellaneous offence.*)

**Article 172. An Official on Active Service Who Without Authority Erects a Commemorative Monument to Himself.**

An official who is on active service who without [any official achievement] (*within the territory in which he is stationed*), on his own authority, erects a commemorative stone tablet or shrine [for himself] will receive 100 strokes of the heavy bamboo. If he sends another person to praise his virtues falsely and to petition the Emperor (*to erect a commemorative stone tablet or shrine for him*) he will receive 80 strokes of the heavy bamboo. The one who was commissioned to do this will receive the same penalty, reduced one degree. (*The stone or shrine will be destroyed.*)

**Article 173. Prohibition Against Welcoming and Bidding Farewell.**

Whenever a superior official or one (*who has received an order from the court*) who is sent on a mission, and is passing through [a particular location], and the officials and clerks of the local yamen go outside the wall of the city to welcome him or bid him farewell, they will be punished with 90 strokes of the heavy bamboo. Those who permit this welcoming or bidding farewell, and do not report and investigate it, will be punished in the same way.

**Article 174. One Who is Sent on a Public Mission and Who Insults Senior Officials.**

One who is sent on a public mission outside the capital and who does not comply with the rules of proper behaviour (*he speaks in an arrogant way*) and insults the commandant, the prefect, the department magistrate, or the district magistrate, will receive 60 strokes of the heavy bamboo. If it is a commandant who commits such an offence, the punishment is 70 strokes of the heavy bamboo. If it is an usher or a guardian of prisoners, the punishment is 80 strokes of the heavy bamboo.

**Article 175. Violating the Rules on Clothing and Houses.**

1. All of the housing, carriages, clothes, and other objects of officials and the people have grades and ranks. If there is a violation of the sumptuary rules and a usurpation of the use [as, to use an object designed for someone of a different rank], and the offender is an official, he will receive 100 strokes of the heavy bamboo and be removed from office and will not be eligible for reappointment. If he is not an official, he will receive 50 strokes of the light bamboo. The punishment will be inflicted on the head of the household. The government artisan [who made the offending article] will also receive 50 strokes of the light bamboo. (*The article which violates the prescribed form must be changed into the proper form. If the government artisan confesses, he will avoid punishment. He will not be given a reward.*)

2. If there is a violation of the prohibition against using designs of dragons or phoenixes, [both] officials and the people will receive 100 strokes of the heavy bamboo and penal servitude of three years. (*The officials will be removed and will not be eligible for reappointment.*) The artisan will receive 100 strokes of the heavy bamboo. The object made in violation of the rules is forfeit to the government.

3. One who denounces [persons who have violated this rule] will receive a reward of 50 taels of silver.

4. Artisans who confess will avoid punishment, and will all be rewarded.

**Article 176. Buddhist and Taoist [Priests or Nuns] Performing [Proper] Observances for Their Parents.**

1. All Buddhist or Taoist priests or nuns should greet and prostrate themselves before their parents and conduct sacrifices for their ancestors (*their relatives in their clan [who are not in the direct line] are included*). The clothing and degrees of mourning (*this means such things as first, second, third, fourth, and fifth degrees of mourning*) are the same as those for ordinary people. Any violation will result in their being punished with 100 strokes of the heavy bamboo and being defrocked.

2. Buddhist and Taoist monks may only use *chou* (a type of silk) and *juan* [a type of raw silk] and cotton cloth. They may not use sackcloth, *si* [a type of thin silk], or silk gauze. A violation will be punished with 50 strokes of the light bamboo. The offender will be defrocked. The clothing will be forfeit to the government. The *kasaya* [Buddhist monk's robe] or Taoist robes are not within the rules of this prohibition.

**Article 177. Failing to Foretell the Signs of Heaven.**

Whenever the Imperial Astronomer fails to foretell and report to the Throne on the aspect of the heavens (*such as the sun and the moon, the five planets, and the twenty-eight constellations*) or special phenomena (*such as a double image of the sun, eclipses of the sun and moon, auspicious stars, comets, and the like*), he will receive 60 strokes of the heavy bamboo.

**Article 178. Diviners Who Speak Absurdly About Bad and Good Fortune.**

No diviner who practises according to the doctrine of yin and yang [the opposed principles of light and dark, male and female, etc.] is permitted in the homes of great or lesser civil or military officials to speak absurdly (*of national*) bad and good fortune. Anyone who violates this provision will receive 100 strokes of the heavy bamboo. Making calculations according to the books on fortune-telling or divination by the stars [under which people are born] are not within this prohibition.

**Article 179. Concealing Mourning for Parents or Husbands.**

1. Every [one] who learns of a parent's death (*for one who is the grandson in the direct line [through the official wife] and who has been designated as [his paternal grandfather's] heir [his father being dead], it is the same [for these grandparents] as for his father and mother*), as well as [every wife] who learns of her husband's death, and does not show his or her grief in public, will be punished with 60 strokes of the heavy bamboo and penal servitude of one year. If the prescribed period of mourning has not come to an end, and he [she] takes off mourning, puts on ordinary clothing, forgets his [her] grief, and follows after pleasure and attends feasts, he [she] will receive 80 strokes of the heavy bamboo. If he [she] learns of the death of a relative of the second degree who is superior in rank or older and hides [this fact and does not show] his [her] grief, he [she] will also receive 80 strokes of the heavy bamboo. If the period of mourning has not come to an end, and he [she] takes off mourning and puts on ordinary clothing, he [she] will receive 60 strokes of the heavy bamboo.

2. If a parent of an official or clerk dies, and he is required to take leave

to observe mourning for the loss of his parent, and he falsely claims to be in mourning for a paternal grandparent or a paternal uncle or paternal aunt, or an elder brother or sister and does not take the leave for mourning for deceased parents, he will receive 100 strokes of the heavy bamboo; he will be removed from office or employment and will not be reappointed. (*If his father and mother are living*) so that he is not in mourning, but he falsely claims to be in mourning, or (*if his parents have already died*), and he falsely claims that the old mourning [which he observed for them] is new mourning, he will receive the same penalty as for (*failing to take leave for mourning*). If [this action is taken with the] intention to avoid the effect of some rule, then sentence (*to the*) heavier penalty (*for such violation* [as between the penalty for violation of this article and that for violation of the rule sought to be avoided]).

3. If the prescribed period for mourning has not come to an end and he conceals his grief in order to carry on government service, sentence to 80 strokes of the heavy bamboo (*and remove him from office*).

4. Any supervisory official who knows [what the offender is doing] and permits him to act in this way, will receive the same penalty [as the offender]. If he does not know, he will not be punished.

5. For those whose service is in a distant place who take leave to mourn their parents, take the day and month when they learn of the loss as the time for beginning [the leave]. For those who are torn away from [following] their feelings and brought back into service [by the Emperor], this law will not apply.

**Article 180.** *Abandoning [the Duty to Care for] Family Members [in order to Engage in] Official Employment.*

Whenever paternal grandparents or parents are 80 or over, or critically disabled by illness, and there is no other adult male in line to care for them, one who abandons this duty of care [to engage] in official employment, or one who falsely claims that paternal grandparents or parents are old or infirm and seeks to return to care for them, will receive 80 strokes of the heavy bamboo. (*Those who abandon their paternal grandparents or parents are ordered to return to nourish them and stay with them until they die and the period of mourning is completed. They will be reduced in grade and return to service. Those who have sought to return [to care for parents or paternal grandparents by making a false claim] will serve in their former duties.*) If someone's paternal grandparents or parents or a

husband have committed an offence entailing the death penalty, and, while they are in detention, he follows after pleasure and attends feasts, the penalty is the same. (*The feast need not be in one's own house. It can be in someone else's house.*)

**Article 181.** *Burial.*

(*For Officials as well as for the People, Burial Must Take Place Within Three Months.*)

1. Whenever, in any household, there is the death of (*a superior or inferior relative*), it is necessary to arrange burial (*within the time-limits*) specified by the prescribed ritual. If, because of fear aroused by geomancy, or on some pretext, someone suspends [the burial] and keeps the coffin with the remains in the house, and if after more than a year [the coffin] is still exposed and the burial has not taken place, the sentence is 80 strokes of the heavy bamboo. (*If it is a case of discarding or destroying the corpse, there is a special rule* [Art. 276].) If, in following the wishes of a deceased who is superior or older, one cremates the corpse or throws it into the midst of the water, the punishment is 100 strokes of the heavy bamboo. If this [action results from] following [the wishes] of an inferior or younger relative, the punishment is reduced two degrees. If the death takes place in a distant place, and the son or son's son is not able to bring the corpse back [for burial] but cremates it, he is permitted to follow his convenience.

2. Families in mourning will practice abstinence and arrange sacrifices and libations for the deceased. If men and women mix together (*the seriousness of the offence lies in this*), and drink wine and eat meat, the head of the household will receive 80 strokes of the heavy bamboo. A Buddhist or Taoist monk will receive the same penalty and be defrocked.

**Article 182.** *Village Wine-Drinking Rituals.*

On occasions when village elders [gather] in order of seniority, or in the case of rituals when the village gathers together to drink wine, there are established forms. Any violation of these forms will be punished with 50 strokes of the light bamboo. (*'The village elders in order of seniority' refers to the conduct and seating on ordinary occasions. 'Rituals when the village gathers together to drink wine', refers to the etiquette and ritual of gathering together [for feasts] and wine drinking.*)

PART V  
[Laws Relating to]  
*The Board of War*

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CHAPTER I  
*Guarding the Palace*

**Article 183.** *Unauthorized Entry into the Gates of the Temple of the Ancestors of the Emperor.*

Whoever (*without good cause*) enters without authorization into the gates of the Temple of the Ancestors of the Emperor or into the gates of the imperial tombs will receive 100 strokes of the heavy bamboo. If he enters the gates of the Altar of the Earth [*tai shi*], he will receive 90 strokes of the heavy bamboo. (*If he arrives at the gate but*) does not cross the portal, in each case the punishment will be reduced one degree. If the official in charge of protecting the gate intentionally permits this, he will receive the same penalty as the offender. If he [simply] fails to discover [the offence], the penalty will be reduced three degrees.

**Article 184.** *Entering the Gates of the Palace Without Authorization.*

1. Everyone who without authorization enters the *Wu Gate* the *Dong Hua* [Gate], the *Xi Hua* [Gate], or the *Shen Wu Gate* of the Forbidden City, or goes into the Forbidden Garden, will receive 100 strokes of the heavy bamboo. If he enters without authorization into the gates of the palace, he will receive 60 strokes of the heavy bamboo and penal servitude of one year. If he enters without authorization into the imperial kitchen, or any place where the Emperor is, he will be strangled (*with delay*). If he has not gone through the gate reduce one degree. (*When the law says 'imperial', the Paternal Grandmother, Mother, and Wife of the Emperor are also referred to.*)

2. If one who is not registered [to enter a] gate deceitfully uses (*another's*) name (*which is registered*) and enters, (*whether or not he passes through* [the gate]), the punishment is the same.

3. Those who are required to enter the palace (*for duty*) who enter without registering at the gate, or those who leave their posts of duty at the proper time but return without authorization, as well as those whose tour of duty

has not yet arrived, but who (*although they must enter, their tour of duty has not yet come round and they therefore violate the [prescribed] order*) come on duty without authority, will each receive 40 strokes of the light bamboo.

4. If one who is not a member of the Imperial Bodyguard on duty, who [as a member of the guard] should carry arms, should enter the gates of the Palace carrying a knife of [even] one inch, he will be strangled (*with delay. It does not say that 'those who have not entered the gate' [will be punished]. Consequently, it is necessary for the individual to have entered the gate before he can be punished.*) If he enters the gate of the Forbidden City he will receive 100 strokes of the heavy bamboo and be sentenced to military exile on the distant frontier.

5. If the gate official or the officers or men of the Imperial Bodyguard intentionally permit this [offence], each will receive the same penalty as the offender. (*If this amounts to death, it will be reduced one degree.*) If he [simply] fails to discover and investigate the offence, and if he is an official, reduce the penalty three degrees. The punishment is limited to 100 strokes of the heavy bamboo. If he is an enlisted man, reduce one degree more. The penalty will be applied to all who were on duty on that day. (*This applies in the same way to officers and men. In the other articles it is applied in the same way.*)

**Article 185. Members of the Imperial Bodyguard and Palace Guards [of the Gate of the Forbidden City] Who Privately Arrange for Their Replacements.**

1. Every member of the Imperial Bodyguard and every palace guard of the gate of the Forbidden City and of the Imperial City who should be on duty and who fails to go [on duty], will receive 40 strokes of the light bamboo. If he privately arranges for one who is a member of the Imperial Bodyguard or a palace guard (*who [at the moment] is not on duty*) to substitute for him he, as well as the one who substitutes, will receive 60 strokes of the heavy bamboo. If he privately arranges for one who is not a member of the guard and who uses a false name to substitute he, and the one who substitutes, will receive 100 strokes of the heavy bamboo. The penalty for officers is increased one degree.

2. If someone is on duty and runs away, the punishment is the same (*as the punishment for being required to go on duty and not going on duty. In the case of officers, the punishment will be increased one degree.*)

3. If it is a city gate of the Capital, reduce one degree. If it is the gate of any other city, reduce still another degree. Those who are personally in charge and know [the facts] and intentionally permit this [offence] will receive the same penalty as the principal offender. If they [simply] fails to discover it, reduce three degrees. Those who have a [good] cause and go to their commanding officers and notify them, will not be punished.

**Article 186. Delays and Violations [of Rules] by Those Escorting [Carriages of the] Emperor.**

1. All those who (*when the Emperor is making an inspection tour*) are required to follow as (*escorts*) the carriages of the Emperor, and who violate (*the prescribed periods of*) time and do not arrive [within them], or who have followed and return first [before the prescribed time], will be punished with 40 strokes of the light bamboo for one day. For each [additional] three days, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. If an official commits [this] offence, add one degree. (*The punishment is limited to 60 strokes of the heavy bamboo and penal servitude of one year.*)

2. If one who is following as an escort to the carriages [of the Emperor] runs away, he will receive 100 strokes of the heavy bamboo and be sent to the distant frontier in military exile. If he is an official, he will be strangled (*with delay*).

3. If the official who is in personal charge intentionally permits this [offence of] (*not arriving [on time] or returning early or running away*), he will in each case receive the same penalty as the principal offender. (*If this amounts to death, reduce one degree.*) If he [simply] fails to discover, reduce three degrees. The punishment is limited to 100 strokes of the heavy bamboo.

**Article 187. Walking on the Imperial Way.**

In the case of the Imperial Way that goes out from the *Wu Men* [Gate] to the Imperial Bridge, apart from officials who are on guard in attendance [on the Emperor] and who go in front or behind the carriage of the Emperor as it leaves or returns, who are permitted to proceed in two rows, east and west, all other civil and military officials, soldiers, or common

people (*who are not persons in waiting on or guarding the Emperor who precede and follow him* [in escort]), who without good cause walk on the [Imperial] way, as well as those who pass over the Imperial Bridge, will receive 80 strokes of the heavy bamboo. One who walks on the Imperial Way within the palace will receive 100 strokes of the heavy bamboo. If the officer on guard intentionally permits this [offence], he will receive the same penalty as the principal offender. If he [simply] fails to discover it, his penalty will be reduced three degrees. One who, in crossing the Imperial Way, walks on it for a moment is not within the prohibition. (*This law is also to be applied to cases where persons walk on the imperial ways of yamen outside the capital when the dragon pavilion and the insignia carried before the Emperor have already been set up* [i.e.] *when the guard of the Emperor is set up.*)

**Article 188. Workers and Artisans Working in the Imperial Storehouse Who Obtain Replacements.**

Whenever an artisan of any sort (*who is on duty*) or any workman (*employee*) [who] is (*to conduct an examination of some goods*) is sent to the imperial storehouse or treasury to carry out a task does not personally obtain a pass to enter the place where he is to serve, but hires another to use (*his*) name (*and obtain a pass*) falsely and privately substitute for him, [both he] and the one who substitutes for him will receive 100 strokes of the heavy bamboo, and the wages paid to the one hired are forfeit to the government.

**Article 189. [Those Engaged in] Construction Work Within the Palace Who Fail to Leave When [the Day's Work] has been Completed.**

In all cases where there is construction work within the palace, (*the official*) in charge will prepare [a list] of the names of all workers and artisans and send it to the gate official and the military guard (*of the place where they are entering*). When [the workers and artisans arrive] at the gate which they are to enter, they will identify themselves, [the official will] count them one by one (*by name*), and look (*at their features*) before they enter for work. When it gets to be the hour of *shen* [4.00 to 6.00 p.m.]

then he must inspect their features and they will leave one by one. Anyone who does not leave will be strangled (*with delay*). The foreman of the work, the supervisory eunuchs, the gate official and the military guard will inspect [the workers] one by one. If anyone is missing from the original muster of names, then they must search for him and immediately submit a memorial [to the Emperor]. Anyone who knows [of the shortage] and does not report it will receive the same penalty. (*If it is death, reduce one degree.*) If he [simply] fails to discover the matter, reduce three degrees. The punishment is limited to 100 strokes of the heavy bamboo.

**Article 190. Entering or Leaving the Palace Gates Without Authorization.**

1. Everyone who is required to leave the palace (*when he is sent on a mission or being given a leave, etc.*) who has already been struck from the gate register who, without authorization, remains and does not leave, or (*an individual who is required to enter* [the palace] *to go on duty who*) has been accused [of an offence] and as to whom a prohibition has already issued, even though his name has not been struck from the register, but who enters the palace without authorization, will each receive 100 strokes of the heavy bamboo. (*These are daytime prohibitions.*)

2. If a member of the Imperial Bodyguard has been accused of some matter and a memorial sent to the Throne for his impeachment, his (*supervising officer who*) has jurisdiction will first take away his arms. Any violation will be punished in the same way.

3. In the case of an individual who is registered at the palace gate (*as one who must serve*), because no one may leave or enter at night, if he enters [at night], he will receive 100 strokes of the heavy bamboo. If he leaves, he will receive 80 strokes of the heavy bamboo. If he is not registered and enters (*at night*), add two degrees. If (*at night*) someone bearing arms enters the gate of a palace hall, he will be strangled (*with delay*). (*If he enters the gate of the palace, he will also be punished in this way. These prohibitions* [of entering or leaving] *are night* [prohibitions] *and are more serious than* [the provisions for] *the day.*)

**Article 191.** *Controlling the Passes of Persons Employed Inside the Palace who Enter or Depart.*

Whenever a eunuch or other person in the imperial service [inside the palace] goes outside, in every case the official (*who guards*) the gate must obtain and keep that person's security pass. He will clearly seal and record his name and the number (*of the pass*) on the gate registry. He will write down the place where [the person leaving the palace] is going, and the business he is going on. The officials at the gate and the military guards are to search his body to see that he is not carrying (*property that belongs to the government or individuals*). Only then will he be permitted to leave. When he returns, he will be searched in the same way. He will be given a pass to enter [the palace] so that it is possible to check the number of times he has gone out every month. If, in searching him, it is discovered that he has some drug, then require (*the person who was carrying it*) to take it himself. If (*on leaving or entering*) there is one who does not submit to a search, he will receive 100 strokes of the heavy bamboo and (*be exiled to the near frontier to serve in*) military service. If one who has not received an imperial rescript, without authority bears weapons and (*brings*) them into the gate of the Forbidden City, he will receive 100 strokes of the heavy bamboo and be sent in military exile to the distant frontier. If he enters the palace gates he will be strangled (*with delay*). If the officials at the gate (*on duty that day*) or the Guard were negligent in searching, they will receive the same penalty as the principal offender. (*If this extends to death, reduce one degree. According to the regulations, sentences to military exile are not to be proposed for persons employed inside the palace. It is only under this article that this [punishment] may be adjudged.*)

**Article 192.** *Shooting an Arrow Towards the Palace.*

Everyone who shoots an arrow or a bullet, or throws a tile or a stone towards the Temple of the Imperial Ancestors, or towards the palace will be strangled (*with delay*). If it is towards the Altars of Land [and Grain], the sentence is 100 strokes of the heavy bamboo and exile to 3000 li. (*It is necessary to shoot the arrow or throw the stone so that it can hit the place concerned. Then the act is punishable. If the act is done from such a distance that it cannot strike the target, there is no punishment.*) But if someone [in the palace] is injured, the punishment is beheading (*with delay*). *It is clear that this [also] applies when someone is killed. If the arrow or*

*stone does not land [inside] but injures someone outside, this law is not used.)*

**Article 193.** *The Arms of Members of the Imperial Bodyguard.*

Those who are in the Imperial Bodyguard must not be separated from their arms. Any violation will be punished with 40 strokes of the light bamboo. Those who without authorization (*temporarily*) leave their duty stations (*while they are on duty*) will receive 50 strokes of the light bamboo. If they go to another place for the night (*they leave for the whole night*), the punishment is 60 strokes of the heavy bamboo. If the person concerned is an officer, add one degree. If the commanding officer himself knows [about the matter] and does not report it, he will receive the same penalty as the offender. If he [simply] fails to discover [the matter], reduce three degrees.

**Article 194.** *Persons Who Have Been Convicted of an Offence are Prohibited from Serving in the Imperial Bodyguard.*

1. In the case of households of persons in the capital who have committed offences and have been punished with the extreme penalty, all those living in the household (*regardless of whether they are related*) will be sent immediately (*by proper authority*) to another place to settle. Relatives of the offender (*who have separate households*), together with (*persons who have committed offences punishable with the heavy bamboo or the light bamboo who have*) been convicted (*in the same proceeding*), may not serve in close attendance on the [Emperor] nor (*in the palace*) Imperial Bodyguard. They are forbidden to guard the gates of the Imperial City or of the capital city. Those who (*hiding the reasons [for exclusion] cited above*), not making a full disclosure, cause themselves to be incorporated [in the Guard] to serve, will be beheaded (*with delay*.) Moreover the said official in charge who does not use diligence to investigate carefully or who has listened to the request of someone or who has received consideration and who has permitted someone to serve will be guilty of the same offence. (*He will be punished with beheading with delay. Moreover a search will be made for the one who made the request.*)

2. If (a member of the family of one who has suffered the extreme penalty or one who has been condemned [in the same proceeding, see para. 1 above]) receives a special imperial rescript assigning him to serve, and a memorial ([containing the reasons for impeachment] *has been*) submitted to the Throne, and a file established, (*then the person selected and the officials having jurisdiction*) are not subject to this rule.

#### Article 195. Cutting Across the Honour Guard.

(*In any place where the imperial carriage is proceeding, those who precede it are called the Honour Guard. The space within [the ranks of the] Honour Guard is a prohibited area.*)

1. In any place where the [imperial] carriage is proceeding, except for those in attendance [on the Emperor] and officers and men of the Guard who are escorting it, all other military and civilian personnel must withdraw. One who enters the area of the Honour Guard will be strangled. (*This is a miscellaneous offence and is punished with five years of penal servitude.*) If, in the countryside, it is impossible to get out of the way in time, it is permitted to prostrate oneself (*at the side of the road*) and wait (until the procession passes). If one of the (*attending*) civil or military personnel without having received an order to do so, and without good cause, breaks into the Honour Guard, he will receive 100 strokes of the heavy bamboo. If an officer or man of the guard forces that form [the imperial] escort intentionally permits this [offence], he will receive the same punishment as the offender. If he does not discover [the violation], the punishment is reduced three degrees.

2. One who wishes to make a complaint [to the Throne] against abuses or acts of oppression is only permitted to do so by prostrating himself outside the line of march in order to wait [for the imperial decision]. If he enters the area of the Honour Guard, and the facts [in the petition] are not correct, the penalty is strangulation. (*This is a miscellaneous offence. He will be sentenced to penal servitude for five years.*) If they are correct, he will avoid punishment.

3. If livestock of military or civilian households run loose and break into the Honour Guard, and the guards do not prevent it, (*then [any] guard [concerned] will receive*) 80 strokes of the heavy bamboo. If [the animals] enter the Forbidden City, (*the guard will receive*) 100 strokes of the heavy bamboo. (*The household that let them run loose will, moreover, be*

*punished on the basis of Doing That which Ought Not to be Done [Art. 386] when the action is serious.*)

#### Article 196. The Camp Gates of Residences [Occupied by the Emperor] When he is Travelling.

The outside camp gates as well as the second camp gates of residences [occupied by the Emperor] when he is travelling are treated the same as those of the Forbidden City. If anyone enters without authorization he will receive 100 strokes of the heavy bamboo. The gate of the 'ivory screen' of the inner [imperial] residence [camp] is the same as the gate of the palace [Art. 184]. One who enters without authorization will receive 60 strokes of the heavy bamboo and penal servitude of one year.

#### Article 197. Climbing Over City Walls.

Everyone who climbs over the wall of the Imperial City will be strangled (*with delay*). If it is the wall of the Capital City, he will receive 100 strokes of the heavy bamboo and exile to 3000 *li*. Anyone who climbs over the wall of [the city that is the seat of government of a] prefecture, department, district, or of a town [below the district level] will receive 100 strokes of the heavy bamboo. If it is the wall of a government building, he will receive 80 strokes of the heavy bamboo. If he climbs but does not go over the wall, in each case the punishment will be reduced one degree. If [the action of climbing is taken with the intention] of avoiding the effects of some rule, in each case sentence to the heavier degree ([as between the punishment in this article and the punishment] *for that offence*).

#### Article 198. Locking Gates through which Entry is Prohibited.

1. In every place where the city gate is supposed to be closed and by mistake it is not locked, the punishment is 80 strokes of the heavy bamboo. If someone without authorization opens or shuts a gate at a time that is not provided for, he will receive 100 strokes of the heavy bamboo. If it is the gate of the walls of the capital city, add one degree. If, because

of urgent official business, the gate is opened or closed at some time other than the prescribed time, the case is not within these rules.

2. If the gate of the Imperial City is supposed to be closed, and by mistake it is not locked, the punishment is 100 strokes of the heavy bamboo and exile to the distant frontier to perform military service. One who opens or closes [these gates] at a time other than the one prescribed, will be strangled (*with delay*). If there was an imperial rescript to open or close, there is no punishment.

## CHAPTER 2

*Military Affairs*Article 199. *Unauthorized Disposition of Troops.*

1. Any general who is in command of foot or cavalry units charged with protecting cities, as well as one stationed in the marches, if there should be reports of the appearance of rebels in his area, will immediately send men to make an investigation of the urgency and nature [of the situation]. (*If the results indicate that the report is true*), he must first notify the person above him in the chain of command to transmit the [information] to the Court so that the Emperor may give appropriate orders to lower levels by rescript to send troops to suppress the disorder. If, when there is no urgent necessity, he does not first notify superior authority, or, although he has notified superiors, he does not await a reply but, without authorization, sends the foot or cavalry units [under his control to settle the matter], or if those subject to [the general's] command should, [when the general has not received] authorization, have sent troops, then (*the general and his subordinates*) will each receive 100 strokes of the heavy bamboo and be removed from office and be sent in military exile to the distant frontier.

2. If there is a sudden appearance of [enemy] forces who intend to attack by surprise or, if in a city or town where foot soldiers and cavalry are stationed, (*internal brigands engage in*) rebellion or (*engage in*) treason, or brigands have assistance from inside, and the matter is of great urgency, or, if the distance is great (*and it is difficult to await the receipt of a reply to the request for instructions*), then he [the general] may, at his convenience, direct the foot and cavalry troops (*that are subject to his orders*) rapidly to take advantage of the opportunity to attack and apprehend [the enemy]. If the enemy forces increase and spread so that it is necessary to gather [more] (*soldiers to attack and*) apprehend them, he may (*send dispatches*) to the neighbouring military commanders, even though they are not under his command, to have them transfer their troops to act in concert with his own. (*The general in charge and the officers* [he has requested to] *act in concert with him*) will immediately report to their superiors who will transmit the information to the Court. If he does not immediately assemble troops, or does not notify his superiors, or if the

neighbouring commanders (*who have received the request for troops to be assigned*) do not immediately send their troops to act in concert, (*the commanding general and the neighbouring officers*) will be punished in the same way as for transferring troops without authorization [above]. (*Each will receive 100 strokes of the heavy bamboo and be sent to the distant frontier in military exile.*) If the superior authorities or high officials (*in command of troops*) send dispatches transferring the general and troops (*and within the document*) there is no [indication of the] receipt of an imperial rescript, then [the ones receiving the transfer order] may not, without authorization, leave the place where they are stationed. If a military officer (*who is in command of troops in an advanced defence position, or who is stationed in a camp*) has (*received an order*) to transfer to another position, or if one [of these commanders] has committed an offence (and receives a written order and is) recalled, if (*within the document*) there is no [indication of the] sending [of a memorial] or receipt of an imperial rescript, they are also not permitted to move without authorization. If there is a violation (*in any of the cases cited above*), the penalty will be the same.

#### Article 200. Reports on Military Matters.

1. In the case of every general who is operating under a commander-in-chief in a campaign, if the commander-in-chief orders him to attack and take a city or a fortified site, after he is successful (*the general*) must send someone to report on the victory by the fastest means (*and inform his*) commander-in-chief who will, in turn, transmit the information to the Board of War. The commander-in-chief (*moreover must set out the circumstances of the victory in*) another memorial to be sent under seal to the Emperor (*without any delay*).

2. If the number of enemy troops is large and they appear and disappear quite unexpectedly, and if the forces of the officer in charge are insufficient, he should immediately petition the commander-in-chief to supply additional troops and make plans to attack and seize [the enemy]. If he does not petition by the fastest method, (*then*) the commander-in-chief will evaluate the seriousness of the matter and fix the penalty. (*If it results in mistakes and losses in military operations, follow the usual laws* [e.g. Art. 201].)

3. If troops (*of the enemy*) come to give themselves up, (*the general*) will

immediately have them taken to the commander-in-chief who will inform the Court which will deal with the matter. Those who, greedy to get hold of the property of those who have turned themselves in, kill or wound (*these*) persons or who, on the road, extort [money] from them by force [and cause] them to run away, will be beheaded (*with delay*). (*If there is no killing or injury, or extortion* [by force], *then just punish in accordance with the law on obtaining property by intimidation* [Art. 273], *or deceit* [Art. 274].)

#### Article 201. Sending Reports of Military Matters by the Fastest Means.

In all cases of sending military information by the fastest means, the prefecture and department outside the capital (*if they hear of matters in districts or if the police chief or others report to them*) will immediately send someone to notify the governor-general, governor, the provincial administration commissioner, the provincial surveillance commissioner, and the circuit intendant. Moreover, they will inform the general and the provincial military commander. The military commander will send someone to notify the governor-general and the governor. Moreover, he will notify his own superior commanding general and the provincial military commander. The governor-general, the governors, the general, and the provincial military commander, after receiving the report, will send someone to report to the Board of War and will send a dispatch containing the whole matter in a sealed memorial to go (*directly*) to the Emperor. If they have received notice from each other, hide the matter, and do not immediately send the information to the Emperor, they will receive 100 strokes of the heavy bamboo and be dismissed from office and be ineligible for reappointment. If mistakes and losses in military operations result, they will be decapitated (*with delay*).

#### Article 202. Leaking Important Military Information.

1. All those who know of secret and important information given by the Court or the commander-in-chief concerning battle plans or attacks on a foreign country, or the apprehension of those who are engaged in rebellion and treason, and who leak this [information] to the enemy, will be beheaded (*with delay*).

2. If a general at the frontier reports about important military matters (to the Court), and [the information] is leaked (so that it is transmitted to the enemy), [the one leaking it] will be sentenced to 100 strokes of the heavy bamboo and penal servitude of three years. (If these two sorts of offenders [those mentioned in paras. 1 and 2] deliberately leak information to the enemy, then sentence them as spies [Art. 224]). Regard the one who first transmits the information as the principal. Those who retransmit it [so that it] reaches [the enemy] are the accessories, [whose punishment] will be reduced one degree.

3. If someone privately opens a sealed government document and reads it, he will receive 60 strokes of the heavy bamboo. If the matter relates to important military matters, sentence on the basis of leaking [above]. (The punishment for the principal is 100 strokes of the heavy bamboo and penal servitude of three years. For the accessory, reduce one degree.)

4. An official who has access to the Presence who leaks information about important secret things to others (this does not refer only to military matters but includes all important state secrets) will be beheaded (with delay). If it is a normal matter [i.e. not an important secret] he will receive 100 strokes of the heavy bamboo and be removed from office without the possibility of reappointment.

#### Article 203. Requests for Military Supplies at the Frontiers.

Every general on the frontiers who (lacks and) must request supplies of military equipment, money, and provisions must, on the one hand, send a person to notify the provincial administration commissioner, and on the other, send another to inform the governor-general, the governor, the general-in-chief, and the provincial military commander. He will also send persons to transmit the information to the government offices concerned and will submit a memorial to the Throne (on the shortages and requirements) which will be sent under seal. When [this] official dispatch arrives at the Board, [the Board] must immediately memorialize the Throne regarding the reported matters to have them dealt with. The person who brought the dispatch will be sent back. If there is a delay and no immediate report to the Throne, or if ([any] general at the frontier) [in making reports to] any government office does not make reports in the prescribed manner, he will receive 100 strokes of the heavy bamboo and be removed from office without the possibility of reinstatement. If, because (he does not report to the other offices and to the Throne, there are deficiencies

when there are encounters with the enemy) and there are mistakes and losses in military operations, he will be beheaded (with delay).

#### Article 204. Mistakes [and Losses] in Military Operations.

1. Whenever an army is engaged in a campaign (the official in charge of these matters) must furnish military equipment, provisions, and forage [for animals]. (If there is a collection and delivery but the materials that are sent) are delayed beyond the prescribed time limit or are insufficient, the said official and clerk will be punished with 100 strokes of the heavy bamboo. Those who caused [the harm] will be punished. (If the superior delays in transmitting a document, or a subordinate does not collect and forward adequate supplies, in each case he is punished as the cause [of the offence]).

2. If, in contact with the enemy, (the official in charge [of supply violates] the prescribed period [for delivery] so that [the materials] do not arrive and) there is a lack, or if the military commander himself has received (a superior's order to) deploy his troops (and lingers and hesitates) and does not advance his troops as ordered, or if (in the army) [someone] has received an assignment to notify the army of a (day) to (assemble) [other units] and he violates the time-limit for doing so, and in consequence there is a loss or mistake in military operations, he will be beheaded (with delay).

#### Article 205. Delays in Following [Orders] to go to Meet the Enemy.

1. Every military officer and man (who has received an order to be transferred) who, close to the moment of the commencement of a campaign (when the troops move) has already had a time fixed for departure, delays and does not proceed, will receive 70 strokes of the heavy bamboo for one day's [delay]. For every [additional] three days add one degree. If he intentionally wounds and cripples himself, or he falsely claims to be ill in order to avoid fighting, in each case add one degree. (Calculate the number of days and apply the punishment.) The punishment is limited to 100 strokes of the heavy bamboo. Moreover, he will be sent to serve in the campaign. (If the injury is so serious that he cannot fight, then take an adult male from his household to serve in his place and send him to fight. Note: these notes were based on the Du Fa [a book published by the Board of Punishments].)

2. If an army is facing the enemy, one who invents pretexts and avoids the fixed date [for the time for proceeding] to his post, will receive 100 strokes of the heavy bamboo for a delay of one day. (*It is not necessary that there be any loss or mistake in military operations.*) If he does not arrive within three days, he will be beheaded (*with delay. The commander-in-chief will himself carry out the military law.*) For those who can establish their merit and [thus] redeem their offences, it will be up to the commander-in-chief to decide the matter.

**Article 206. Military Personnel Who [Arrange for a] Substitute.**

1. Whenever a military person (*who has already been ordered to proceed*) does not go personally to war, but hires another to substitute for him under his name, the substitute will receive 80 strokes of the heavy bamboo. The one who [was replaced] will receive 100 strokes of the heavy bamboo. He will be [sent to his unit] as ordered originally. (*Moreover he will be sent to fight.*) If a soldier [who is on duty] to defend (*a fortified city*) hires another to serve for him under his name, each will have his punishment reduced two degrees. If (*a soldier is ordered to go to war or to defend*) and a son, son's son, younger brother, or brother's son, or a young and strong relation who lives in the same household (*without there being any hiring*), serves for him voluntarily, this is permitted. If a [person of military status] is old, disabled, crippled, or ill (*not fit for fighting*), he may go to his superior in command and lay the facts before him. If the facts are verified to be true, he will be relieved from his military status [and thus be relieved from service.]

2. If a [military] physician who has been assigned to receive government medicine and follow the troops into battle hires an unskilled physician to serve for him under his name, (*then both he and the substitute*) will receive 80 strokes of the light bamboo. The wages (*obtained by this unskilled physician*) will be forfeit to the government.

**Article 207. Commanding Officers Who do not Energetically Defend the Places Where They are Stationed.**

1. Any general charged with guarding the frontier who is attacked and surrounded by the enemy in a fortified place, and does not make strenuous

efforts to defend it, and abandons it without authorization, or who (*in peace time*) does not preserve and construct defences will, if there is an attack by the enemy, and, as a result (*of his abandonment or lack of preparation*), the fortified position is lost, be sentenced to be beheaded (*with delay*). If (*officers or men*) are in contact with [in the face of] the enemy, and the persons who are on watch on the heights or on patrol fail to give notice [of this] in the fastest way so that there is loss of the city and or injury to the troops, they will also be beheaded (*with delay*). If (*the commanding general is not diligent in guarding and making preparations, or if the watch fails to report, but* [these acts] *do not result in the loss of a city or an army but merely result*) in the enemy crossing the frontier and taking the people captive, [each] will receive 100 strokes of the heavy bamboo and be sent to the distant frontier in military exile.

2. Officers or men who, in the face of the enemy, retreat first, or who, besieging an enemy fortress, run away, will be beheaded (*with delay*).

**Article 208. Permitting the Army to Engage in Pillage.**

1. Whenever a general charged with guarding the frontiers privately by himself [i.e. without orders] orders military personnel [to go to] foreign territories (*that are not annexed* [to the Empire]) to seize persons and property, (*the general*) will receive 100 strokes of the heavy bamboo, be dismissed from service, and be sent to the very near frontier in military exile. Those under his command who have listened to him and obeyed [his orders] will, if they are military officers and squad leaders, have their sentences reduced proportionately one degree. Punish the ones (*who have given the orders and are*) the cause of [the action]. The men are not punished.

2. If soldiers, without having (*been ordered to do so*) by a superior officer who is in charge, on their own go beyond the frontiers and pillage, the principal will receive 100 strokes of the heavy bamboo. The accessories will receive 90 strokes of the heavy bamboo. (*If, as the result of the pillaging, there is* injury to (*a foreign*) person, the principal will be beheaded (*with delay*). The accessories will receive 100 strokes of the heavy bamboo. (*In the case of injury to a human being in the course of the pillaging, the accessory, and where there is no injury, both the principal and accessory*) will all be sent to the distant frontier in military exile. If the superior officer who is in charge [of these offenders] does not control them strictly, he will receive 60 strokes of the heavy bamboo and be left in service.

3. If, in frontier cities, there are rebels who go out and hide, and the [military] leader takes advantage of the situation to lead his troops to attack and seize them, the case is not within this rule.

4. In the case of pillaging in territories within the territorial limits of the Empire, do not distinguish between principal and accessory. All will be beheaded (*with delay*). If the commanding officers do not control [such offenders] strictly, they [such officers] will receive 80 strokes of the heavy bamboo. They will remain in service.

5. If the (*general*) knows the circumstances (*of soldiers privately going out and pillaging outside the frontiers or within the territorial limits* [annexed territories] *of the Empire*) and intentionally permits it, in each case he will receive the same penalty as the offender. (*If this amounts to death, reduce one degree*).

#### Article 209. *Failing to Drill the Troops.*

1. When any officer serving in a guard function wherever stationed (*on the far frontier or in the interior area within the country*) does not maintain discipline and does not drill the troops, or when the fortifications [under his command] are not whole [i.e. are broken down in places], and armour and weapons are not in proper order and condition [battleworthy], he will, for the first offence, receive 80 strokes of the heavy bamboo. For the second offence, 100 strokes.

2. If officers (*charged with the guard of a place*) are not in a state of strict alertness and readiness and do not take care of and control [their men] properly, with the result that the men under their command rebel, the said officers in charge will each receive 100 strokes of the heavy bamboo and will be required to surrender their imperial (*commissions*). They will be sent to the distant frontier in military exile. If (*because of the rebellion by the soldiers*) [such an officer] abandons the place and flees, he will be beheaded (*with delay*).

#### Article 210. *Pushing Honourable Persons too Far and Causing Them to Revolt.*

Every official (*having jurisdiction*) to watch over and care for the people who (*in time of peace*) fails to treat the people kindly, and (*moreover*) acts

contrary to the rules (*so that they cannot bear it*) and pushes honourable people too far so that they rebel—gather a crowd and commit acts of rebellion—and [as a result] a city is lost, will be beheaded (*with delay*). If there is *only revolt and a city is not lost, then use the law of an officer on guard duty who does not control the troops appropriately and causes them to revolt* [Art. 209], and sentence to military exile. Memorialize the Emperor for instructions.)

#### Article 211. *Private Sale of Military Horses.*

Every military person [enlisted man] who goes into battle and seizes horses (*from the enemy*) must deliver the full number [taken] to the government. If he sells them privately (*to a civilian*), he will receive 100 strokes of the heavy bamboo. If a military officer sells [such horses] (*privately*), the penalty is the same, and he will be removed from service. The purchaser will receive 40 strokes of the light bamboo. The horses and the price received will be forfeit to the government. (*If, while on campaign*) a military officer or man purchases them, there will be no penalty. (*As for the seller, the price* [which he received] *will be levied on and forfeited to the government. Moreover, a punishment will be adjudged.*)

#### Article 212. *Privately Selling Military Equipment.*

Every military person (*who takes*) the armour, clothing, swords and lances, banners, and all necessary military equipment (*that were issued to him*) and privately sells them to (*a civilian*), will receive 100 strokes of the heavy bamboo and be sent to the distant frontier in military exile. The military officer who (*privately*) sells [such items] will receive the same penalty and be removed from service. He will be sent (*to the very near frontier*) in military exile. The purchaser will receive 40 strokes of the light bamboo. (*If, among* [the articles sold,]) there is something that is prohibited (*some article of military equipment which* [ordinary] *people are not permitted to possess, and it is bought*), then punish on the basis of the rule for a private person possessing [such an article, Art. 214]. (*For one article, the punishment is 80 strokes of the heavy bamboo. For every* [additional] *article, add one degree. The punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) The items of military equipment (*that*

were purchased, regardless of whether they were prohibited [to private persons] or not,) as well as the price (*that was obtained*), are forfeit to the government. For officers and men who purchase, there is no penalty. (*The sellers will be punished and the price is forfeit to the government*).

#### Article 213. Destroying or Discarding Military Equipment.

1. Every general who has been issued military equipment and who (*goes out on a*) campaign or is stationed in a garrison (*in a position of defence*), who, when the task is concluded, retains [the equipment] and does not (*take it and*) return it to the government, (*then counting from the day when the task is completed*) will, for ten days [delay in returning it] be sentenced to 60 strokes of the heavy bamboo. For each [additional] ten days, add one degree. The punishment is limited to 100 strokes of the heavy bamboo.

2. If (*the mission—whether campaign or garrison duty—of a general comes to an end, and he*) without authorization discards or destroys (*the equipment*), then for one item, he will receive 80 strokes of the heavy bamboo. For each [additional] item, add one degree. For over 20 objects, the punishment is beheading (*with delay*). For loss or destruction caused by mistake, reduce in each case three degrees. Any military person (*who discards, destroys, or loses* [equipment] *by mistake*) will in each case have his penalty reduced one degree more. Moreover, investigate the number [of objects] destroyed or lost), and levy for repayment [of their value] (*to the government*). If the damage or loss occurs in battle, there will be no punishment and no compensation.

#### Article 214. Privately Keeping Prohibited Military Equipment.

Everyone who privately possesses armour for horses or men, shields, tubes of fire [a primitive gun], a catapult for throwing fire, banners and signaling devices, and the like—military equipment that is forbidden to the people—will, for one such item, receive 80 strokes of the heavy bamboo. For each [additional] item, add one degree. If he manufactures the item privately, add to the punishment for possessing it privately, one degree. In each case, the punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 *li*. If it is not complete (*so that it cannot be used*), there is no penalty. He may be ordered to deliver it to the government. Bows

and arrows, lances, swords, and crossbows, as well as fishing forks and pitchforks, are not within the category of prohibited objects.

#### Article 215. Allowing Military Personnel to Run Wild and Abandon Their Duties.

1. In the case of all company commanders, platoon leaders, or squad leaders in command who permit military personnel to go more than 100 *li* away to engage in business or privately to plant fields, or secretly place them in their service and release them from their military duties (*so that they do not engage in drill, compute the number of military persons who have been released and are secretly engaged and for*) 1 person, give 80 strokes of the heavy bamboo. For each [additional] 3 persons, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. [The offender] will be removed from the service. If he receives consideration and sells the release [from duty], sentence on the basis of [receiving consideration and] causing perversion of the law [Art. 344] according to the more serious penalty. The military personnel who are concealed (*those who are released, those who have been secretly placed in their service, or those who have been sold their release*) will receive 80 strokes of the heavy bamboo. If [such an officer] privately sends [troops] beyond the frontier and some die or are captured by rebels, the punishment is 100 strokes of the heavy bamboo and removal from the service. He will be sent to the distant frontier in military exile. If it amounts to 3 people, the punishment is strangulation (*with delay*). Officers who have special responsibilities for the unit who know the circumstances and hide [such offending officers] and do not reveal and question them [for the offence], as well as those who falsely report that [those who have disappeared] have deserted, and, together [with the offenders], make a report to that effect, will receive the same penalty as the offenders. (*The punishment is limited to 100 strokes of the heavy bamboo and military exile at the distant frontier.*) If the squad leader, platoon leader, or company commander allows his soldiers to run wild, and the officer with special responsibility in this respect in their unit knows the circumstances and intentionally permits it, or if he conceals the matter and does not carry out interrogation [of the suspects], or if the officer with special responsibility in this regard for the unit allows soldiers to run wild, and the company commander, platoon leader, and squad leader know and do not report it, the punishment is the same. (*If* [these

officers] *privately send* [men] *beyond the frontier and do not report, the punishment is the same*).

2. If control is not strict ([even though] *there is no intentional release of personnel or use of them for private purposes*), so that these offences are committed (*whether it is going 100 li or going beyond the frontiers thus privately abandoning their own duties*), as well as the case where (*originally he neither knew of the circumstances nor hid them but*) merely failed to discover them, if a squad leader is short 1 person, or a platoon leader is short 5 persons, or a company commander is short 10 persons, or the person with special responsibility in this unit is short 50 persons, in each case the punishment is 40 strokes of the light bamboo. If the squad leader is short 2 persons, the platoon leader 10, the company commander 20, or the person with special responsibility in this unit 100, each will receive 50 strokes of the light bamboo. He will remain in service. If [the number] does not reach these amounts, there is no punishment.

3. If a military officer privately uses military personnel in his own household, and does not secretly place them in his service or cause them to abandon their duties (*by preventing them from carrying them out*), for one person the punishment is 40 strokes of the light bamboo. For each 5 [additional] persons, add one degree. The punishment is limited to 80 strokes of the heavy bamboo.

4. Moreover, calculate the days that each person [worked] and levy [on the officer] for the amount of the pay (*at the rate of 8 fen, 5 li, 5 hao [0.0855 taels per day] which will be forfeit to the government*).

5. Those who, because of family circumstances of celebration or mourning, borrow persons [in their command] will not be punished.

#### Article 216. A Gong or Hou who Privately Uses the Services of Military Officers and Men.

No *gong* or *hou* who has not received a special imperial rescript to do so, may privately command military officers or men to perform services [for him]. If there is a violation, for the first offence and the second offence, he will avoid punishment. For the third offence, memorialize the Emperor to have the matter handled. In the case of officers and men who obeyed the orders, or, when the army is not going into battle, without authorization place themselves at the doors of the *gong* or *hou* to serve, officers will receive 100 strokes of the heavy bamboo and be removed from service.

They will be sent to the distant frontier in military exile. Enlisted men will receive the same punishment. (*If it is a Bo Jue who commits the offence, also send a memorial requesting a decision according to this law*.)

#### Article 217. An Officer or Man Engaged in Attack or Defence who Flees Battle.

1. Every officer or man (*who has received orders to*) go to battle [attack] who privately [without orders] runs away and returns home or runs away to some other place, if it is a first offence, will be punished with 100 strokes of the heavy bamboo and will be sent to the front. For the second offence, the punishment is strangulation (*with delay*). Those who know of the nature (*of the flight*) and conceal and hide those [who flee] (*regardless of whether it is the first or second offence*) will receive 100 strokes of the heavy bamboo and be sentenced to military exile. If the community head (*of the place where [the fugitive] has his household registration, or where he now is*), knows the circumstances and does not report [him], he will receive 100 strokes of the heavy bamboo. If, (*when the campaign is over*) and the army returns, (*there are officers and men who do not accompany their corps in an orderly way*) and return, they will receive the same penalty reduced (*from that of running away*) five degrees. Those who run away will receive 80 strokes of the heavy bamboo. If soldiers in the capital run away, if it is the first time, the punishment is 90 strokes of the heavy bamboo. If a soldier of any locality who is on duty to defend a city runs away, if it is the first time, the punishment is 80 strokes of the heavy bamboo. In each case he will be sent [back] to the army. For the second offence (*whether it is in or outside of the capital*), inflict 100 strokes of the heavy bamboo and sentence to military exile on the distant frontier. If it is the third offence, the punishment is strangulation (*with delay*). One who knows the circumstances (*of the running away*) and hides and conceals [the offender] will receive the same penalty as the offender. The punishment is limited to 100 strokes of the heavy bamboo and military exile (*in a very near place. This is not within the rule prescribing exile to the distant frontier or strangulation*.) If the community head knows and does not report, in each case [he will receive a punishment] reduced (*from the penalty for hiding and concealing*) two degrees. (*The penalty of beating with the heavy bamboo is reduced. The punishment is limited to 80 strokes of the heavy bamboo. As for military personnel who are [at the front] on a*

*campaign or on guard duty, if their* immediate commanding officers know the circumstances and permit them to go free, each will be punished (*according to which time* [first, second, or third] *it was*) with the same penalty [as the principal offender]. The punishment is limited to 100 strokes of the heavy bamboo and removal from the service. He will be sent to a very near place in military exile. An officer or man (*on campaign or on guard*) who has run away who, (*counting from the day he ran away*), within 100 days himself goes to the authorities and turns himself in (*regardless of whether it is the first or second time*) will avoid punishment. If, after the time-limit has expired, such a [person] turns himself in, reduce the penalty two degrees. The official of whatever place he turns himself into will decide the case. (*He may cancel the penalty entirely or reduce it two degrees.*)

2. In every case where military personnel stationed in a particular garrison (*do not serve at their own station*) but [without having received an order] go to another garrison [to serve], it will be decided in the same way as the offence of running away. (*Whether it is the first or second offence, in all cases decide the case in accordance with the above provisions of this article.*)

#### Article 218. Benevolence and Assistance Towards Relatives of the Military.

In all cases where household members of the families of military officers or men who have died in battle or from illness return to their homes they (*must be given*) supplies and subsidies for the journey. If there is an official having jurisdiction (*of the places they pass through en route*) who does not immediately provide these (*then taking the day of arrival of the household members at this place as the point for beginning the computation*), for one day's delay punish with 20 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 50 strokes of the light bamboo.

#### Article 219. Curfew.

1. There is a curfew in the Capital City at night. Those who violate this [rule between the period] (*after*) the third round of the first watch when

the bell has ceased to sound [probably 8.30 p.m.], and (*before*) the third round of the fifth watch when it starts to ring [probably 4.30 a.m.], will receive 30 strokes of the light bamboo. Those who violate this [prohibition] during the second, third, or fourth watches will receive 50 strokes of the light bamboo. If it is a city or town outside the capital, the penalty is reduced one degree. If (*in the capital or in a city outside the capital, because*) there is a pressing public matter, or if (*in the family of a member of the armed forces or a civilian*) there is illness, or birth, or death, then the case is not within this rule.

2. If the evening bell has not ceased to sound, or the morning bell has already rung and the night-watch intentionally seizes passers-by and holds them, and falsely claims they have violated the [rules for the] night, he will receive the penalty [which he intended to impute to] the ones seized.

3. One who breaches the night-time rules and resists arrest, and those who strike and grab [those who are trying to arrest, him], will receive 100 strokes of the heavy bamboo. If as a result someone beats ([one or more members] *of the night-watch*) to such an extent that there is a fracture or worse, then the punishment is strangulation (*with delay*). If death results, then the punishment is beheading (*with delay*). *The phrase 'the one who resists arrest' refers to the one who violates the night-time rules. The phrase 'those who strike and grab' refers to others. If the night-watch falsely claims that persons have violated the night-time rules, so that they resist arrest and there are mutual blows that result in death, then apply the rules for ordinary persons engaging in an affray [Art. 302].*

### CHAPTER 3

## Law of Control Posts

#### Article 220. [Without Authorization] *By-passing or Privately or Deceitfully Passing Land- or Water-Control Posts.*

1. Everyone who, without a written pass, privately passes a land- or water-control post will receive 80 strokes of the heavy bamboo. If he passes a control otherwise than through the gate, or a water-control post otherwise than by ferry (*going by another route*), he will receive 90 strokes of the heavy bamboo. If he passes the customs posts on the frontier, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. If he has (*secretly*) stolen across (*and established relations*) beyond the frontier, he will be strangled (*with delay*). If the guards [in control of the post] know of this, and intentionally permit it, they will receive the same punishment (*up to death which will be reduced one degree*). If they fail closely to question [the one passing the control], the punishment (*of the officer*) will be reduced three degrees. The punishment is limited to 100 strokes of the heavy bamboo. An enlisted man is reduced one degree more. The offence will be attributable to those on duty when it happened.

2. If there is a written pass but someone deceitfully uses (*someone else's*) name to pass a land- or water-control post, he will receive 80 strokes of the heavy bamboo. If persons in one household falsely use each other's [names], the punishment will be inflicted on the household head. If the guard knows the circumstances, he will receive the same penalty. If he does not know the circumstances, he will not be punished.

3. If someone (*without a pass*) takes horses or mules and 'privately' or 'deceitfully passes' a land- or water-control post, he will receive 60 strokes of the heavy bamboo. If he passes the control post by 'by-passing' it, he will receive 70 strokes of the heavy bamboo. ('*Privately passes*' means *the man has a pass, but there is no pass for the horses and mules*. '*Deceitfully passes*' means *using the hair colour and age of the horses and mules on someone else's pass*. '*By-passing the control post*' means *that the man passes the land- or water-control post and the horses and mules do not pass the land- or water-control post [but go around it]*.)

#### Article 221. *Fraudulent Issue of Travel Passes.*

1. When travel passes should not be issued (*this refers to giving passes to those prisoners sentenced to be deported or persons in the household of an offender who are sentenced to be deported [because of him] and the like*) but passes are issued, or when a military person falsely claims to be a civilian, or a civilian falsely claims to be a member of the military, and also when someone fraudulently gives another's name to the one issuing the pass, or if the pass that has been issued is transferred to another person, in each case the penalty is 80 strokes of the heavy bamboo. If, at a station which [a traveller] passes, or where he stops, he turns in (*for exchange*) the pass that was given to him (*note: 'turn in [that which was given] means that the pass has already expired [or he wishes to go to a place not provided for in the pass], and in a place that [the traveller] is passing through, he turns in his old pass and exchanges it for a new one*), or if officials or powerful or influential persons have someone ask civil and military yamen [Art. 380] to deliver to them, without authority, a written pass (*for the exit or entry of persons or goods*) [that allows the holder] to practise deceit, each will receive 100 strokes of the heavy bamboo. (*If an official or clerk or artisan whose pass is very old requests a new pass at the yamen where he was originally stationed or employed so that his identity can be verified, and his identity matches [the description in the old pass], the [pass] will be exchanged. The case is not within this rule*). If the said official or clerk listens [to these requests] and accedes to them or knows the circumstances and issues [the pass] (*in the above three cases*), he will receive the same punishment. If he does not accede or know, he will not be punished.

2. If a police officer exceeds his authority in issuing passes, the punishment is like this (*according to the law of listening and acceding [to these requests or] knowing the circumstances [and issuing the pass above]*). *Note: The police officer has the task of investigation. Therefore he may not exceed his authority in issuing passes.*)

3. If (*a yamen which is required to issue [passes]*) does not establish a file [in a particular case] but simply delivers a sealed pass in blank to be filled out privately, [the responsible persons] will be sentenced to receive 100 strokes of the heavy bamboo and penal servitude of three years.

4. In the case of those who receive consideration (*distinguish between those who are on the government payroll and those who are not*) calculate the value of the consideration and sentence on the basis of [receiving consideration] and causing perversion of the law [Art. 344]. If the action

is taken as a scheme to avoid a rule, (*as the selling of forbidden goods abroad [Art. 225] or crossing the frontier to avoid the penalty for an offence*), in each case sentence according to the law with the more serious penalty.

**Article 222.** [Causing] *Delays and Difficulties at Control Posts.*

1. Whenever a boat passes a control post and the guard does not immediately verify (*by interrogation*) and examine (*the pass*) and permit it to proceed, [and] without a cause prohibits it from proceeding, he will for one day (*'s delay*) receive 20 strokes of the light bamboo. For each [additional] day, add one degree. The punishment is limited to 50 strokes of the light bamboo. (*Punish those who were on duty [when the incident took place]. If they received consideration, sentence according to the provision for an official or employee of the government who receives consideration from a person who is involved in a matter. Calculate the value of the consideration, and impose the penalty on the basis of the law on [receiving consideration] and causing perversion in the law [Art. 344].*)

2. If an official or powerful influential person passes a control post in a boat and does not submit to verification and examination, he will receive 100 strokes of the heavy bamboo.

3. If the wind and waves come up to make it dangerous [to cross], the ferryman and his assistants are not permitted to take the ferry across. A violation will be punished with 40 strokes of the heavy bamboo. If [the one in charge of the ferry] does not take account of the wind and waves, but intentionally causes the ferry to embark, and when he arrives in the middle, stops the boat and demands [additional] payment, he will receive 80 strokes of the heavy bamboo. If someone is killed or injured, sentence on the basis of intentional killing (*if there is death*) [Art. 290]. If it is injury (*that does not lead to death*), sentence [for injuring, Art. 302]. (*If he has not demanded [a special] payment, but has merely failed to take into account the wind and waves, and [the boat] sinks and someone is killed or injured, sentence on the basis of [killing or injury through] mischance [Art. 292].*)

**Article 223.** *Assisting Wives and Daughters of Soldiers Who Have Deserted to Depart from the City.*

1. All those military officers or men on guard duty in the capital who assist the wives and daughters of soldiers who have deserted to leave the Capital will be strangled. (*This is a miscellaneous offence.*) If it is a civilian who commits the offence, he will receive 100 strokes of the heavy bamboo. If, in any place where military personnel are stationed to guard cities or plantations, a military officer or man assists the wife and daughters of a deserter to leave the city, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. If a civilian commits the offence, the punishment is 80 strokes of the heavy bamboo. If he receives consideration, calculate the value of what is received and sentence on the basis of [receiving property] and perverting the law [Art. 344]. (*Distinguish between those who are on the government payroll and those who are not.*) If the soldier who has deserted has purchased and sought this assistance, his penalty is the same. (*If the penalty for desertion is more serious, still sentence under this law.*) If the one who was guarding the gate knew the circumstances and intentionally permitted it, he will receive the same penalty as the principal offender. If he [simply] fails to interrogate and verify (*if he is an official*), reduce the penalty three degrees. The punishment is limited to 100 strokes of the heavy bamboo. If he is a soldier, reduce still one more degree.

2. One who assists the wife and daughters of a soldier who is not a deserter to escape from the city, (*as when the offender has been sentenced to exile for committing an offence and the wife and daughters privately return to the location where they were originally registered, as long as it is not the case of a deserter, all those cases are included*), will receive 80 strokes of the heavy bamboo. If this is a case [where a soldier is] scheming to avoid the effects of a rule, then he will be sentenced to the heavier penalty (*as if he craftily induces fornication [Art. 366] or deceitfully sells [a woman] [Art. 275], or in cases where he is incriminated by attain*) he will receive the heavier penalty. (*Sentence to the heavier penalty for sending someone away secretly to avoid [a penalty] [Art. 393].*)

**Article 224.** *Interrogating Spies.*

If there are spies within the country, [whether] they are in the frontier regions or in the interior of the country, who pass out information to

foreigners, or if spies from abroad enter the boundaries [of the country], observe and listen to things, [and such a spy] is discovered and caught and brought to the official, [the spy] must be put to the question to get the truth about those who guided him (*into the country*) and those who are plotting (*to [help him] go abroad*). Obtain the facts. (*Do not distinguish between principals and accessories.*) All will be beheaded (*with delay*). Those charged with guarding the places through which [the spies] travelled, if they knew of [the matter] and intentionally permitted it, or hid it and did not report it, will receive the same penalty as the [principal] offender. (*If this amounts to death, reduce one degree.*) If he [simply] fails to interrogate, (*the official*) will receive 100 strokes of the heavy bamboo. A soldier will receive 90 strokes of the heavy bamboo. (*Punish the one who was on duty [when the incident occurred].*)

**Article 225. Privately [Exporting] by Going Beyond the Land Frontiers or by Sea in Violation of the Prohibitions.**

Everyone who privately exports horses, cattle, iron articles for military use (*which have not yet been completed as military equipment*), copper cash, satin, heavy silk, and silk batting [floss silk] across the land or sea frontier, will receive 100 strokes of the heavy bamboo. (*The hired*) bearers and carters will receive the same penalty reduced one degree. Moreover, the goods, wagons, and ships will be forfeit to the government. Dividing the whole into ten portions, three portions [of the confiscated property] will go to the informer as a reward. One who takes persons and military equipment beyond the [land] frontier or to sea will be strangled (*with delay*). If there is, as a consequence, a leakage of some matter, he will be beheaded (*with delay*). The said officials [charged with] restraining [those matters], as well as the guards who collaborate with the traffic or who know the circumstances and intentionally permit it to take place, will receive the same penalty as the [principal] offender. (*If this amounts to death, reduce [one] degree.*) If he fails to discover and report the matter, (*the official*) will [receive this penalty] reduced three degrees. The punishment is limited to 100 strokes of the heavy bamboo. If he is a soldier, reduce one degree more. (*Inflict the punishment on the one who was on duty [on the day in question]. If the guard receives consideration, sentence on the basis of [receiving consideration] and causing perversion in the law [Art. 344].*)

**Article 226. Privately Using Archers.**

Everyone who, in a private (*matter*), uses (*gives orders to an*) archer will receive 40 strokes of the light bamboo. For every [additional] three men, add one degree. The punishment is limited to 80 strokes of the heavy bamboo. For every [archer], calculate the number of days (*of service*), and for each day, levy for the salary [figured at] 8 fen, 5 li, 5 hao [0. 0855 taels]. This will be forfeit to the government. The responsible official who accepted [the request] and sent [the archers] (*for service*) will receive the same penalty. The penalty is imposed on the ones who caused the situation (*the official who accepted the request and sent [the archers]*).

## CHAPTER 4

### *Stables and Herds*

#### Article 227. *Caring for Livestock Contrary to the Rules.*

In the case of all those who care for (*government*) horses, cattle, camels, mules, asses, and sheep, take 100 head as the base. If any die or are injured or lost, in each case make a report in accordance with the facts. As to those that have died, then the hide, the mane, and the tail will immediately be turned in to the government. In the case of cattle, the tendons, horns, and hide will be turned in to the government. As for the pasturage director (*in charge of the herds*) and the deputy director, for each head (*of horses, cattle, and camels*) he will receive 30 strokes of the light bamboo. For each [additional] 3, add one degree. When [the punishment] exceeds 100 strokes of the heavy bamboo, for each [additional] 10 add one degree. The penalty is limited to 100 strokes of the heavy bamboo and penal servitude of three years. For sheep, reduce the penalty from that for horses three degrees. (*For 4 head, 10 strokes of the light bamboo. For each 3 [additional] head add one degree. When the punishment exceeds 100 strokes of the heavy bamboo, for each [additional] 10, add one degree. The punishment is limited to 70 strokes of the heavy bamboo and penal servitude of one and a half years.*) For asses and mules, reduce from the penalty for horses, cattle, and camels two degrees. (*For one head, 10 strokes of the light bamboo. For each [additional] 3 head add one degree. When the penalty exceeds 100 strokes of the heavy bamboo, then for each [additional] 10 head, add one degree. The punishment is limited to 80 strokes of the heavy bamboo and penal servitude of two years.*) If the embryo is born prematurely and does not survive [preserve it in] ashes; moreover, if [livestock] are old and die from natural causes, investigate the matter and clarify it. Do not punish. In the case of loss, [the responsible person] has to compensate [for the loss]. In the case of injury, when [the injured livestock] are not fit to be used, reduce the penalty for death [of the animal] one degree and inflict punishment. But the number of those dead or injured may not be excluded [in computing the compensation].

#### Article 228. *The Increase of Horses.*

For every pasturage director in charge of caring for [government] mares, 100 will constitute a herd. Three herds should produce each year 100 foals. If, in one year, they produce only 80, [he will receive] 50 strokes of the light bamboo. If [they produce] 70, [he will receive] 60 strokes of the heavy bamboo. If it is a manager of herds [superior to the pasturage director] who is not diligent in supervising matters (*so that the herd's yield does not reach the quota*), in each case reduce the penalty three degrees. The punishment of the head of the Court of the Imperial Stud will be still further reduced from the penalty of the manager of herds by two degrees.

#### Article 229. *Verifying Livestock Incorrectly.*

All (*officials*) who together examine and categorize (*they examine the quality of the animals and categorize them by determining if their quality is good or bad*) government horses, cattle, camels, mules, or asses, and who do not do so on the basis of the facts (*how good or bad they are*) will, for 1 head, receive 40 strokes of the light bamboo. For each [additional] 3 head, add one degree. The penalty is limited to 100 strokes of the heavy bamboo. If they examine [and categorize] sheep incorrectly, reduce three degrees. If, because (*the verification of the livestock is incorrect*), the price is raised or lowered, calculate the increase ([which causes] *loss to the government*) or the reduction in the price (*causing injury to the people*), then punish for illegally obtained property [Art. 345]. If someone takes [livestock] for himself, then sentence on the basis of a supervisor or guardian himself stealing [Art. 264]. Sentence according to the heavier penalty. (*If the penalty [for verifying] incorrectly is greater, then punish for the amount taken according to [verifying] incorrectly. If the penalty for [the supervisor or guardian] himself stealing is greater, punish for [the supervisor or guardian] himself stealing [Art. 264] according to the number taken.*)

#### Article 230. *Rearing, Caring for, or Treating Emaciated or Sick Domestic Animals in a Way that is Contrary to the Rules.*

Everyone who rears or treats emaciated or sick (*government*) horses, cattle, camels, mules, or asses in a way that is not in accordance with the rules will (*regardless of the number*) be punished with 30 strokes of the

light bamboo. If in consequence they die, for 1 head, he will receive 40 strokes of the light bamboo. For each 3 [additional] head, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. In the case of sheep, reduce three degrees.

**Article 231.** *Riding on Government Animals and Injuring Them on the Back or Neck.*

If government horses, cattle, camels, mules, or asses are ridden in a way that is not in accordance with the rules, and (*this causes*) an injury to the back or neck so as to cause a wound 3 *cun* [approx. 1.4 in.] in circumference, [the one who rode] will receive 20 strokes of the light bamboo. For 5 *cun* or more, 50 strokes of the light bamboo. (*Punish the one who rode.*) If those [animals] that are being tended and reared become emaciated, then, using 100 head as the basis [for calculation], for 10 head of emaciated cattle, the herdsman, the pasturage director and the deputy pasturage director will each receive 20 strokes of the light bamboo. For each [additional] 10 head, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. In the case of sheep, reduce three degrees. Each manager of herds will be punished according to the number of pasturage directors he controlled. Calculate and set the penalty. (*Also take ten portions as the basis* [for calculating the penalty].) The official of the Court of the Imperial Stud will have his punishment reduced from the punishment for the manager of herds by three degrees.

**Article 232.** *When Government Horses are not Broken In.*

Every official who is charged with caring for horses who is permitted to ride the government horses will, if they have not been broken in, for one horse, receive 20 strokes of the light bamboo. For every 5 [additional] head, add one degree. The punishment is limited to 80 strokes of the heavy bamboo.

**Article 233.** *Slaughtering Horses and Cattle.*

1. Everyone who, without authorization, slaughters his own horses and cattle will receive 100 strokes of the heavy bamboo. If [the animals] are

camels, mules, or asses, the punishment is 80 strokes of the heavy bamboo. The tendons, horns, and hide will be forfeit to the government. If he kills by mistake, or if [the animal] dies because of illness, there is no punishment.

2. One who intentionally kills another's horses or cattle will be sentenced to 70 strokes of the heavy bamboo and penal servitude of one and a half years. If the [animals] are camels, mules, or asses, the punishment is 100 strokes of the heavy bamboo. (*The punishment is the same if it is an animal belonging to the government.*) If, in calculating the value [of the animals that were killed], the punishment [for stealing them] if they were illegally obtained property would be greater, then punish as if it were non-manifest theft [Art. 269]. (*Levy for the price* [of the animal], *and give it to the owner. If it is government property, then punish as for an ordinary person stealing government property* [Art 265]. *But there will be no tattooing.*) If the injury does not result in death, but as a consequence the animals cannot be ridden or used, or if he kills such beasts as swine, or sheep, and the like, calculate the reduction (*in the*) value (*of the slaughtered or injured animal*) and sentence as if it were theft [Art. 269] of that amount. In each case collect the reduction in the value as damages for (*the government or the owner*). If the price is not reduced, the penalty is 30 strokes of the light bamboo. In the case of killing or injuring by mistake, punishment is not adjudged, but the reduction in value will be levied as damages.

3. Accessories (*who intentionally kill or injure*) will receive a punishment reduced one degree [from that of the principal]. (*In the case of government property, do not distinguish between principal and accessory.*)

4. If one kills the horses, cattle, camels, mules, or asses of a relative of the fifth degree or above, the punishment is the same as for the owner who privately kills [his own beasts]. (*The price of the animal will be levied on and given to the owner.*) If one kills swine, or sheep, or that sort of animal, calculate the reduction in the value and sentence for illegally obtained property [Art. 345] of that amount. The punishment is limited to 80 strokes of the heavy bamboo. If someone unintentionally kills or intentionally injures, in both cases, do not punish, but in each case the reduction in the value must be levied and paid [to the owner] as damages.

5. If government or private animals injure or eat government or private property, and in consequence they are killed or wounded, then in each case reduce the penalty for intentionally killing or injuring three degrees. Levy and collect the reduction in value, (*and return it to the owner*). The owner of the animals is responsible for the damages to the property that was

injured or eaten. ([The compensation] *is given to the government or the owner.*)

6. One who intentionally looses government or private livestock so that they injure or eat government or private property will receive 30 strokes of the light bamboo. (*Calculate the value of the thing eaten. If* [the penalty] for obtaining property [of that amount] illegally [would result in a penalty that is] greater (*than this penalty*), sentence for illegally obtained property [Art. 345]. (*The penalty is limited to 100 strokes of the heavy bamboo and penal servitude of three years.*) If [the one responsible] [simply] fails (*to keep them in*), the penalty will be reduced two degrees. In each case he will be responsible for damages for injury to the property (*which will be given to the government or to the owner*).

7. If government animals (*through negligence in keeping them penned in*) [escape], and injure or eat government property, then merely impose the penalty [set out in para. 6 above]. The case is not within the rule of paying damages.

8. If an animal is about to butt, ram, kick, or bite a person, and he immediately kills or injures it, there is no punishment. There is also no reimbursement for damages. (*The same rule applies to government and privately owned property.*)

#### Article 234. *Animals that Bite and Kick People.*

1. Whenever a horse, bovine animal, or dog rams, butts, kicks, or bites people, and (*the owner*) has not marked and tied it in the right way, or if there is a mad dog and he does not kill it, he will receive 40 strokes of the light bamboo. If in consequence it kills or injures a person, sentence on the basis of non-intentional [killing or injuring, Art. 292]. (*In each case there will be compensation as if it were killing or injuring in an affray* [Art. 302]. *The money paid in compensation will be given to the owner* [*sic*, presumably to the victim or his family].) If someone intentionally releases [an animal] to kill or injure another, he will receive the punishment for killing or injuring another in an affray [Art. 302], reduced one degree. (*If it is a relative who has committed the offence, it will be decided on the basis of the law of superior and inferior* [relatives] striking and injuring [each other, Arts. 317, 318].) In the case of those who are hired to treat and cure an animal (*and who do not have the skill to control it*), as well as those who without good cause (*themselves*) bump or prod [torment] an animal, and are killed or injured, there is no punishment.

2. If someone intentionally releases a dog and orders it to kill or injure another man's animal, he will receive 40 strokes of the light bamboo. Levy on him for damages for the reduction of the value [of the injured animal] in money (*and give it to the owner*).

#### Article 235. *Hiding the Young Born to Government Animals.*

Everyone charged with caring for or rearing government animals, such as horses, mules, asses, and the like, will, in the case of young that are born to them, make a report to the government within ten days. If he conceals the matter beyond the prescribed time and does not report, calculate (*the price of the concealed* [animals] *as*) illegally obtained property and sentence as if it were non-manifest theft [Art. 269]. ([The sentence] *is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) If he sells it feloniously or (*if he takes a barren animal*) and exchanges it, sentence on the basis of a superior or guardian himself stealing [Art. 264]. (*Do not distinguish between principal and accessory. Cumulate the total amount. If it comes to 40 taels, it is a miscellaneous offence and he will be beheaded.*) If the official who is manager of herds and the official of the Court of the Imperial Stud know the circumstances and do not report, they will receive the same penalty as the principal offender. If they do not know, none of them is punished. (*If the purchaser knows the circumstances, sentence on the basis of intentionally buying stolen property* [Art. 278]. *The sold or exchanged property is forfeit to the state.*)

#### Article 236. *Privately Borrowing and Lending Government Animals.*

Every supervisor (*official or clerk*) or (*one who is a guardian*) who takes government horses, cattle, camels, mules, or asses [from his own organization] and makes use of them for himself or lends them to another (*it does not matter whether they are taken for a long or short time, nor how many there are*) will, together with the person who borrows the animals, each receive 50 strokes of the light bamboo. Verify (*the computation of the number of*) days (*that* [the property] *has been borrowed*). Levy for the rental price which is forfeit to the government. If [illegal taking of] an amount of money [equal to] the rental price results in a penalty of more (*than 50 strokes of the light bamboo* [Art. 264?]), then punish for illegally obtained

property [Art. 345], adding one degree. (*The rent may not exceed the price of the article* [Art. 24].) If the government animal dies, then punish under the rule of destroying or discarding government property [Art. 98]. If the animals are taken from their pasture, punish as for theft [from a granary or treasury] by ordinary persons [Art. 265].

**Article 237. *Someone on a Government Mission Who Demands to Borrow Horses.***

Every person who is sent on a government mission and [on his way] passes a place [post-station] and demands to borrow (*except for what is required for transportation*) government horses to ride, will receive 60 strokes of the heavy bamboo. If [he demands] asses or mules, the punishment is 50 strokes of the heavy bamboo. The official who furnishes them will receive that penalty reduced one degree. This punishment is inflicted on the one who caused [the matter to arise] (*the one who [actually] furnished [the animals]*).

CHAPTER 5  
*Courier Stations*

**Article 238. *The Transmission of Official Documents.***

1. Whenever courier soldiers transmit official documents, they must proceed at the rate of 300 *li* per day and travel both night and day. For every 3/100 of a day [Art. 41] delay, the punishment is 20 strokes of the light bamboo. For each [additional] 3/100 of a day, add one degree. The punishment is limited to 50 strokes of the light bamboo. When documents arrive at the courier station, regardless of how many there may be, (*the officials in charge of the courier station*) must immediately (*register them and dispatch soldiers*) to carry them. They may not wait for subsequent documents to arrive. If they violate this rule, the courier-station officials will receive 20 strokes of the light bamboo.

2. If the courier soldier who is carrying the documents rubs or injures the cover but does not disturb the original seal, for one cover he will receive 20 strokes of the light bamboo. For each [additional] three, add one degree. The punishment is limited to 60 strokes of the heavy bamboo. If he injures the official document (*without disturbing the original seal*), he will receive 40 strokes of the light bamboo for one document. For each [additional] two, add one degree. The penalty is limited to 80 strokes of the heavy bamboo. If he hides an official document or breaks the original seal, for one document the punishment is 60 strokes of the heavy bamboo. For each [additional] document, add one degree. The punishment is limited to 100 strokes of the heavy bamboo. If it is a secret document relating to military affairs (*this is not the same as leaking [the matter, Art. 202]*), regardless of the number of documents, simply punish with 100 strokes of the heavy bamboo. If he hides or breaks [the seal] with the purpose of avoiding [the effect of a] rule then, in each case, sentence to the heavier penalty. (*If [the penalty for breach of the] rule that he seeks to avoid is greater, sentence for that; if the penalty for hiding and breaking [the seal of] the document is greater, sentence for that.*) If the courier-station official does not report the matter, he will receive the same penalty as the principal offender. If the matter is reported and the official having jurisdiction does not take jurisdiction and handle the matter,

he will receive the punishment of the principal offender, reduced two degrees.

3. The head of the district courier station is specially required to inspect each courier station under him; the supervisory official or clerk must personally investigate each station once a month. (*If there is dishonesty*) and he fails to investigate and report, calculate the number of documents that were delayed as well as covers that were rubbed or injured when the original seal was not disturbed, and if the figure is ten or more, the head of the courier station will receive 40 strokes of the light bamboo. The supervisory chief clerk will receive 30 strokes of the light bamboo and the [next superior] official will receive 20 [strokes of the light bamboo]. If an official document is injured or hidden, or if the seal of the original cover is opened (*the head* [of the courier station]) will receive the same penalty as the courier soldiers. The supervisory chief clerk will receive the penalty reduced one degree. The [next superior] official will receive a penalty reduced still one degree more. If the supervisors of the prefecture or department fail to investigate and report, each will receive the same penalty reduced one degree.

#### Article 239. *Intercepting Sealed Official Dispatches.*

1. Whenever officials in a high or low yamen outside the capital have transmitted a sealed dispatch to be presented to the Emperor (*when subordinate officials are abused by superiors they are also permitted to send sealed petitions* [Art. 6]), and a superior official sends men to intercept the messenger *en route* and take [the sealed document] back from the express courier station *en route*, then regardless of whether [this action] took place far-away or near by, the head of the courier station or the courier soldier will proceed to the official having jurisdiction [over the location] and report. [This office] will, without delay or excuse, petition the higher authority to forward it to the board concerned which will memorialize the Emperor. When the investigation has established the truth (*of the matter of the intercepting* [of the document]) [the persons concerned] will be beheaded (*with delay. The interception of the communication to the Emperor known as a jin biao wen will be punished by analogy to this offence.*) If the courier-station officials or the courier soldiers hide the matter and do not report, each will receive 100 strokes of the heavy bamboo. If a report has already been made, and the official

having jurisdiction [over the location] does not immediately take jurisdiction and take care of the matter, the punishment is also the same.

2. If the intercepted dispatch is addressed to one of the Six Boards or to the Censorate, in each case reduce the penalty two degrees. (*If a subordinate officer fears the report made by a superior to the Emperor to dismiss him, and [in consequence] intercepts the dispatch, apply this subsection by analogy.*)

#### Article 240. *Courier-Station Buildings that are in Bad Condition.*

In every case where buildings of the stations for the express transport of dispatches are in bad condition and are not repaired, or their equipment is not complete, or the number of courier soldiers is below the complement and no action is taken to fill it, or the old and infirm are ordered to perform service, the head of the station will receive 50 strokes of the heavy bamboo. The inspector having jurisdiction will receive 40 strokes of the light bamboo.

#### Article 241. *Privately Employing Courier Soldiers.*

No official sent on a public mission by a yamen may (*in the territory he crosses*) use a courier soldier to transport government goods or private baggage. One who violates this [prohibition] will receive 40 strokes of the light bamboo. Compensation for the work performed will be calculated at 8 *fen*, 5 *li*, 5 *hao* [0.0855 taels] per man per day and will be forfeit to the government.

#### Article 242. *Couriers Who Delay in Their Mission.*

1. All of those who are sent on a mission for ordinary matters and who do not proceed from point to point within the prescribed time-limit will, for one day's delay, receive 20 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 60 strokes of the heavy bamboo. If it is a serious military matter, add three degrees. If there are losses or mistakes in military operations, he will be

beheaded (*with delay*). If the official at the courier station intentionally hides the good horses, or on some pretence does not deliver them [to the messenger] so that there is a violation of the permitted time-limits, and if the interrogation proceeding makes this clear, then punish the station official (*on the basis of the penalties of beating with the light or heavy bamboo or beheading provided for above*). If, *en route*, [the one sent on the mission] is stopped by flood [or other] obstruction to the road, do not punish him.

2. If a courier receives an official document and mistakenly does not proceed to the destination in accordance with (*what was originally*) written on the label (*for the place* [for making] *the delivery*) but wrongly proceeds to a different place so that he exceeds the prescribed limits for the journey, reduce the penalty two degrees. (*For four days the punishment is 10 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 40 strokes of the light bamboo.*) If the matter is a military affair, do not reduce. If the mistake is that of the one who wrote the label, only he will be punished. The courier will not be punished.

#### Article 243. *Using Too Many Post-Horses.*

1. Everyone who is sent on a mission who, in addition to the post-boats or horses that he must use, takes one boat too many or one horse too many, will receive 80 strokes of the heavy bamboo. For each [additional] boat or horse, add one degree. If he is supposed to take an ass and he takes a horse, or he is supposed to take a horse of middle or lower grade and he demands and takes one of high grade, he will receive 70 strokes of the heavy bamboo. If he strikes and injures the post official, add one degree. (*If this amounts to breaking teeth or a more serious injury, sentence for striking in an affray* [Art. 302].) If the post official complies with the demand, he will receive the punishment of the offender reduced one degree. If [the one sent on the mission] is supposed to ride a horse of high grade and the post official furnishes a horse of middle or low grade, punish the post official. If at that courier station there is no high grade, do not punish.

2. If (*one sent on a mission*) uses the wrong route to ride post, or passes the courier stations and does not change horses or boats, he will receive 60 strokes of the heavy bamboo. If in proceeding [in this way] a horse

dies, add one degree. Levy on [the one sent on the mission] for the value of the horse which will be forfeit to the government.

3. If the matter is not urgent and he does not go by the wrong route, and while he is riding the post-horse [too fast], it dies, he will be liable for the price but will not be punished.

4. If it is an urgent military matter, and when he arrives at the courier station there is no boat or horse to exchange [and the horse dies], he will not be punished and he is not liable for the price. (*Also investigate the reason for the lack [of horses] to be exchanged.*)

#### Article 244. *Excessive Receipt of Provisions.*

In the case of anyone who goes out on a mission and who receives excessive provisions calculate [the amount of excess as] illegally obtained property, and sentence on the basis of [receiving consideration] and not perverting the law [Art. 344]. (*Distinguish between those who are on the government payroll and those who are not.*) The said officials and clerks who make delivery will be reduced one degree. If he uses force to obtain [these provisions], sentence on the basis of obtaining consideration and causing perversion in the law [Art. 344]. The officials and clerks are not punished. (*One who has received too many rations will have this rule applied by analogy.*)

#### Article 245. *Documents Which Should Be Given to the Courier Service [for Dispatch] But Are not Given [to It].*

1. Whenever the Court orders troop movements, or announcements of urgent military matters are made to the generals at the frontiers, [or whenever] if the generals at the frontiers or any yamen send an urgent message to the Court about a military matter by a (*sealed*) document, one who intentionally does not use the courier service [to send the document] (*but sends* [his own messenger] *to carry it*) will receive 100 strokes of the heavy bamboo. If there are losses or mistakes in military operations, he will be beheaded (*with delay*).

2. If it is a matter of letters of felicitation to the Emperor, relief of famine, disaster, notification of [national] disasters or other unusual occurrences, a request for [materials to satisfy] military requirements, or other

alogous important matters, and there is one who intentionally does not  
 the courier service, he will receive 80 strokes of the heavy bamboo. (*If  
 re is a loss or mistake in a military operations, sentence in the heavier  
 ree.*) If it is an ordinary matter for which there is no need to use the  
 rrier service, and it is used intentionally, the punishment is 40 strokes  
 the light bamboo.

icle 246. *Required Transport in Public Matters that is Delayed.*

enever in public matters it is necessary to transport under escort gov-  
 ment property, or convoys of convicts or animals, and the escort de-  
 s, without authorization, as well as in the case of any public matter  
 re there is a prescribed time-limit that is exceeded, for one day's [delay],  
 punishment is 20 strokes of the light bamboo. For each [additional]  
 e days, add one degree. The punishment is limited to 50 strokes of the  
 t bamboo. If [supplies to meet] military requirements are sent under  
 rt to be delivered and the escort (*delays and*) violates the prescribed  
 -limit, in each case, add two degrees. The punishment is limited to 100  
 kes of the heavy bamboo. If it results that the army is deprived [of  
 lies] in the presence of the enemy, and there are losses and mistakes  
 ilitary operations, sentence to beheading (*with delay*). If the one sent  
 he mission does not proceed in accordance with the direction written  
 he dispatch but by mistake goes to another place so that he exceeds  
 rescribed time, reduce [that] punishment two degrees. If it is a military  
 er do not reduce. (*Sentence according to the above provisions whether  
 a punishment of light bamboo, heavy bamboo, or beheading.*) If it is  
 use of an error in the label on the dispatch (*that he exceeds the  
 ribed time-limit*), impose the punishment on the one who wrote the  
 . Do not punish the one entrusted with the mission.

icle 247. *Occupying the Chief Rooms of a Courier Station.*

ryone sent on a public mission who goes away from the Capital to take  
 of some public matter and who occupies the principal hall or chief  
 is in a courier station will receive 50 strokes of the light bamboo. (*The  
 ipal hall and chief rooms of the courier station are for entertaining  
 e-holding officials and [distinguished] guests.*)

Article 248. *Riding on Post-Horses and Carrying Private Articles.*

Everyone who is sent on a mission requiring the use of post-horses who,  
 apart from his personal clothing (*clothing and weapons*), carries personal  
 property will, for 10 *jin* receive 60 strokes of the heavy bamboo. For each  
 additional 10 *jin*, add one degree. The punishment is limited to 100 strokes  
 of the heavy bamboo. If it is a post-ass, reduce one degree. The private  
 property (*that is carried*) will be forfeit to the government. (*One who rides  
 a horse to death will be punished according to that law* [Art. 243].)

Article 249. *Privately Requiring the People to be Bearers of Sedan  
 Chairs.*

1. Every official or clerk of a yamen as well as one sent out on a mission  
 who makes the people perform service as bearers for his sedan-chair will  
 receive 60 strokes of the heavy bamboo. If there is an authority which  
 furnishes [the bearers], reduce one degree. If there is a powerful and rich  
 (*common person's*) household (*which does not give compensation for the  
 service but by means of force*) makes its tenant farmers serve as bearers,  
 the penalty is the same. For each person, calculate the number of days [he  
 worked], and levy on [the wrongful user] for 8 *fen*, 5 *li*, 5 *hao* [0.0855  
 taels] per day and give it to the workers.

2. Those among the people who pay salaries to the bearers are not  
 within this rule.

Article 250. *The Households of all Officials Deceased from Illness  
 Who Return to Their Home Villages.*

Whenever a civil or military official who is on duty dies from illness in a  
 natural way, and his household members do not have the means to return  
 to their home villages, the official having jurisdiction will send someone to  
 take charge of sending them [home] and supply the necessary means for  
 obtaining (*carriages, boats, bearers, and horses*) and will verify the dis-  
 tance and the (*number of household*) members. The official will furnish  
 supplies for the journey and will send them on their return home, going  
 from station to station. Anyone who violates [this provision] and does not  
 send them home will receive 60 strokes of the heavy bamboo.

Article 251. *Receiving a Mission and Hiring or Sending Someone Else to Perform it.*

1. Whenever anyone who receives a mission to transport government property, prisoners, or animals does not himself take charge of the matter and forward them but hires or sends someone else to act for him and transport them, will receive 60 strokes of the heavy bamboo. If as a result there is injury or loss to the government property or animals, or the loss of prisoners, then each will be sentenced in accordance with the heavier penalties for (*that*) offence [i. e. injuring and losing government property, Art. 137, or losing prisoners, Art. 390.] (*If the injury or loss results in the severer penalty, then apply the penalty for injury or loss. If it is lighter, apply the penalty for hiring or sending [others] to transport [this Article].*) The person hired or the person sent will receive the same penalty as that of the one given the mission), reduced one degree.

2. If persons sent together to accomplish a mission mutually substitute for each other and release each other, each will receive 40 strokes of the light bamboo. If they have taken the objects (*which they have received from those for whom they substitute and release from responsibility, calculate the value as illegally obtained property and sentence on the basis of [receiving consideration] and not causing perversion of the law [Art. 344].*) If there is injury or loss, also levy and sentence according to the rule for injuring or losing government property [Art. 137] or the law for losing prisoners [Art. 390]. This is not within the rule for reducing sentences above]. (*If there is fraud or intentional release, then sentence according to the particular law. If it is the one who substitutes who has violated the law, and the one who was in charge of sending him on the mission does not know this, do not sentence [him].*)

Article 252. *Using Government Animals, Carriages or Boats to Transport Private Goods.*

1. In the case of anyone who is sent on a government mission who must use government horses, cattle, camels, mules, or asses, (*each yamen will furnish official horses; he will not ride post*), the personal articles that he carries with him apart from the clothing and arms he is wearing or carrying may not exceed 10 *jin*. For 5 *jin* in excess, punish with 10 strokes of the light bamboo. For each [additional] 10 *jin*, add one degree. The

punishment is limited to 60 strokes of the heavy bamboo. (*This is not within the article on riding post-horses [Art. 248].*)

2. The personal property that may be taken along by one riding on [government] carriages or boats may not exceed 30 *jin*. One who violates this [rule] will receive, for 10 *jin*, 10 strokes of the light bamboo. For each [additional] 20 *jin*, add one degree. The punishment is limited to 70 strokes of the heavy bamboo. Family members who follow will not be punished. One who receives and carries private property of some other person and the one who ships the property will [both] receive the same penalty. The property will be forfeit to the government. If the official having jurisdiction knows of the matter and permits it, he will receive the same penalty. If he does not know, he will not be punished. If it is a matter of family members who should be sent, (*such as [relatives of] military persons who die in battle or by disease, or deceased military officers or military or civilian officers who die from illness while on duty, then although they have private property carried with them*), they are not within this rule.

Article 253. *Privately Borrowing Post-Horses.*

Every post official who borrows post-horses for his own use, or lends them to someone else, as well as the one who borrows, will receive 80 strokes of the heavy bamboo. If it is a post-ass, reduce one degree. Investigate the matter, (*and calculate*) the number of days and levy for the rent [for that number of days]. This amount will be forfeit to the government. If the penalty for the amount of the rent, when calculated [and considered as illegally obtained property, Art. 345], is greater (*than the penalty for borrowing privately*) then sentence for illegally obtained property in that amount [Art. 345], increased two degrees.

PART VI  
[Laws Relating to]  
*The Board of Punishments*

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CHAPTER I  
*General Public Disorder  
And Theft: I*

(The Jian Shi [a Ming text explaining the code] states: 'General public disorder [Zei] is evil. It brings harm to the life of the people. It exerts a pernicious influence throughout the empire. Therefore it is called general public disorder. Theft [dao] affects only one person, one family, one place.' The first three articles from the beginning [Art. 254] through Sorcery [Art. 256] are concerned with general public disorder. The remainder all concern theft.)

**Article 254. Plotting Rebellion and High Treason.**

In the case of plotting rebellion (*that which is dangerous to the state, that is to say, plotting harm to the god of land and grain [i.e. a plot against the dynasty]*) and high treason (*that which is harmful to the ruler, that is to say, plotting to destroy his ancestral temples and tombs and his palaces, [i.e. a plot against the Emperor himself]*), when there is joint plotting, do not distinguish between the principal and the accessory. (*Whether or not [the plot] has been carried out*), all will be put to death by slicing. (*In the case of the actual perpetrator of the offence*) his paternal grandfather, father, sons, sons' sons, brothers, and those living in the same household (*such as those of the same clan who are not so close as to wear mourning, as well as his maternal grandfather, his wife's father, sons-in-law, and the like*), regardless of whether they are of the same surname, as well as (*the relatives of the actual perpetrator who are of one year's mourning*), his paternal uncles, and sons of his brothers—this is not limited to those who are registered in the same household (*or whether or not they have left home*)—(*male [relatives]*) sixteen years or over, regardless of whether they are critically or seriously disabled will all be beheaded. His (*male relatives*) fifteen years or under, as well as (*the actual perpetrator's*) mother, daughter, wife, concubines, [unmarried] sisters, and also the wives and concubines of his sons, will all be given into the households of meritorious

officials [cf. Art. 3] as slaves. The property (*of the actual perpetrator*) will be forfeit to the government. If a marriage of a daughter (*or younger or older sister*) has already been agreed upon, then she will go with her husband. (*If the actual perpetrator's*) son or son's son has entered the household of another [been adopted]; or (*where the actual perpetrator*) has entered into an engagement but the marriage has not yet been completed, then all of these persons [that is, the perpetrator's sons, sons' sons, and fiancée] are not punished. (*The above provisions merely punish the sons of brothers of the actual perpetrator; this does not extend to their sons' sons. Those excluded from the text of the law are not covered. They are not treated as being persons attainted by relation with the offender.*) Anyone who knows the circumstances and intentionally permits the offence or hides the guilty one, will be beheaded. If those who have apprehended the (*perpetrator[s]*) are civilians, bestow upon them commissions as civilian officials. If they are military, bestow upon them military commissions (*the position depending upon their merit*). Moreover, use all of the property of the offender to constitute a reward. If someone knows [of the offence] and reports it, [and as a result] the government apprehends [the perpetrator, the informer] will only be given the property. (*Even though a person does not intentionally permit the offence*), if he does not report it, he will be sentenced to 100 strokes of the heavy bamboo and exile to 3000 *li*. (*If the action has not yet taken place and the relatives denounce [the perpetrator] to the magistrate to have him apprehended, then the perpetrators involved, as well as the persons convicted by attain [because of their [relationship] with him], will all avoid penalty because of the confession. If the action has already taken place, only those directly involved will not avoid the penalty. The rest will avoid it. If it is not the relatives who report the matter and bring the guilty one to justice, then although it has not yet taken place, still they [the principal offender and his relatives] will be punished according to the law.*)

#### Article 255. Plotting Treason.

1. In the case of anyone who plots treason (*that is to say one who plots to betray his own country and secretly serves another country*)—when there is joint plotting, no distinction is made between principals and accessories—all are beheaded. The wives, concubines, sons, and daughters [of the offender] will be given to the households of meritorious officials to serve as slaves. His property will be forfeit to the government. (*His sisters will*

*not be punished*). In cases where the engagement of a daughter has already been agreed upon, or where a son or son's son has been adopted by another household, or where there has been a betrothal of a wife [to a son or son's son, but the marriage] has not yet taken place, these people are all not punished. The parents, paternal grandparents, sons' children, and brothers, regardless of whether or not they are registered in the same household, will all be sentenced to exile to 2000 *li* and settled there. (*The others are not punished.*) If there is one who knows the circumstances [of the offence] and intentionally lets it happen and hides [the guilty person], then he will be strangled. One who denounces and apprehends [the guilty person] will be given the offender's property as a reward. If someone knows of an action (*that has already taken place*) and does not report it, then he is sentenced to 100 strokes of the heavy bamboo and exile to 3000 *li*. If there is a plot, and it has not yet been carried out, then the principal will be strangled, and each of the accessories (*regardless of how many*) will receive 100 strokes of the heavy bamboo and exile to 3000 *li*. If someone knows (*of [a planned treasonable] action that has not yet taken place*) and does not report it, then he will be sentenced to 100 strokes of the heavy bamboo and penal servitude of three years. (*If it has not yet taken place, then it is still secret and therefore it is not said to be [a case of] intentionally permitting [an act] and hiding [the perpetrator].*)

2. If someone flees and hides in the mountains or in the marshes and does not submit to an order to report (*this is a case of avoiding official service or of having committed an offence and absolutely refusing to submit [to an order to report], it is not to be compared with temporary flight [i.e. temporary flight is not treated as this sort of offence]*). Sentence on the basis of a plot to commit treason which has not yet been executed. (*As in the above [paragraph] distinguish between principal and accessory.*) As for those who engage in armed resistance against government troops, sentence them on the basis of plotting an action which has been executed. (*Follow the law above and do not distinguish between principals and accessories. On the basis of the above two articles, an action that has not yet been executed is regarded as secret [i.e. the facts are not public]. It is necessary to make a determination of the facts and then sentence.*)

#### Article 256. Writing Books on Sorcery or Speaking About Sorcery.

Those who make auguries or write books on sorcery or speak about sorcery, as well as those who circulate and use them and disturb the

multitudes, will be beheaded (*with delay*). (*The persons who were disturbed will not be punished. If [the materials] reach less than three people, the penalty will be exile to 3000 li. The penalty will be based upon an examination of the circumstances.*) If, (*some other person having been the author or having circulated them*), a person has such magical books in his possession and hides them and does not deliver them to the authorities, the penalty will be 100 strokes of the heavy bamboo and three years of penal servitude.

**Article 257. Stealing Sacred Objects Devoted to the Great Sacrifices.**

Anyone who steals sacrificial utensils, curtains, etc. which are devoted to use in the great sacrifices to the (*heaven which [is called]*) gods of heaven and to the (*earth which [is called]*) gods of the earth, as well as those who steal offerings of jade, silk, livestock, [and] vessels for food and the like, will all be beheaded. (*Do not distinguish between principal and accessory or between guardians and ordinary persons. This means [thefts which take place] within the palace hall as well as those of objects which have already arrived at the place of sacrifice.*) Those [who steal] (*utensils and objects*) which have not yet been presented to the gods or whose preparation is not complete or which have already been offered, as well as other objects belonging to the government (*which, although used in the great sacrifices, are not the things sacrificed*), will all be punished with 100 strokes of the heavy bamboo and penal servitude of three years. If, in calculating the value of the illegally obtained goods, [the penalty for theft of property of that value] is more than this penalty (*100 strokes of the heavy bamboo and penal servitude of three years*), then add one degree to the penalty for theft. (*This means that one degree is added to the penalty for theft by a supervisor or guardian [Art. 264] or [theft by] an ordinary person [from a granary or treasury] [Art. 265]. If the result is the penalty of strangulation or beheading for a miscellaneous offence do not add [a degree].*) Moreover, there will be tattooing.

**Article 258. Stealing Written Imperial Orders.**

1. Everyone who steals a written imperial order (*if [the stolen order was] not the original document with the imperial seal but merely a copy, then*

*the provision on [stealing] official documents [below] applies*) will be beheaded. (*Do not distinguish between principal and accessory.*)

2. Anyone who steals the document of any yamen will be sentenced to 100 strokes of the heavy bamboo and tattooed. If there is a scheme to avoid the effects of a rule (*such as obtaining money or supplies by fraud [Art. 274], receiving consideration, [Art. 345] or purchasing or soliciting a favour [Art. 348], or the like*) then award the heavier penalty. If it is a matter of money or supplies for military matters, then all will be strangled (*with delay. Do not distinguish between principal and accessory.*)

**Article 259. Stealing a Seal.**

Everyone who steals the seal of a yamen (*do not distinguish between principal and accessory*) will be beheaded (*with delay. Moreover, the sub-statute of the article on 'Counterfeiting Seals and the Imperial Almanac' states: 'the imperially bestowed guan fang [an oblong seal] is the same as [the above square] seal'. [Art. 358.2].*) Anyone who steals a *guan fang* or *yinji* [another oblong seal usually smaller than the *guan fang*] seal will receive 100 strokes of the heavy bamboo and be tattooed.<sup>5</sup>

**Article 260. Stealing Property from the Imperial Treasury.**

Everyone who steals property from the Imperial Treasury will be beheaded. (*This is a miscellaneous offence. It is the act of stealing that is punished. It does not matter whether the [things taken] are many or few. Do not distinguish between principal and accessory. If the property has not yet entered the warehouse, then merely punish according to the law of stealing official property [Art. 265]. The words 'Imperial Treasury' are to be emphasized.*)

**Article 261. Stealing the Key of the City Gate.**

Everyone who steals a key to the gate of the Capital City will (*without distinction between principal and accessory*) be sentenced to 100 strokes of the heavy bamboo and exile to 3000 li. (*This is a miscellaneous offence.*)

<sup>5</sup> Presumably this provision refers to seals that were not bestowed by the Emperor.

Anyone who steals the key to the city gate of a prefecture, department, district, or town will be sentenced to 100 strokes of the heavy bamboo and penal servitude of three years. One who steals the key to the granary, treasury, or warehouse (*of a yamen whether within or without the capital*) will receive 100 strokes of the heavy bamboo. Moreover, he will be tattooed. (*The law has no specific provision for theft of a key to the Imperial City; therefore, use the provision on stealing property from the Imperial Treasury.* [Art. 260]. *As for stealing the key to a prison, use by analogy the [provisions on stealing the key to a] granary or treasury* [Art. 260].)

#### Article 262. *Stealing Military Equipment.*

In all cases of theft of military equipment (*which a person receives from the government and keeps at home, such as clothing, armour, lances, knives, bows, arrows, and the like*), calculate the value of the illegally obtained property and sentence on the basis of general theft [Art. 269]. Theft of military equipment whose possession is forbidden (*among the people, such as the armour of men and horses, bucklers, fire tubes, catapults, flags, military standards, and the like*), is punished the same as (*in the case of the offence of the owner*) who privately possesses them [Art. 214]. If military personnel of an army that is in motion or the Imperial Bodyguard, steal such objects from each other for themselves, then sentence on the basis of general theft [Art. 269]. (*If they do not take [an item] for themselves*) but it is used for the government, then in each case reduce the penalty two degrees.

#### Article 263. *Stealing Trees from the Emperors' Tombs.*

Everyone who steals trees from the Emperors' tombs will (*without distinction between principal and accessory*) be sentenced to 100 strokes of the heavy bamboo and penal servitude of three years. If he steals the tree from the grave of someone else's ancestor, (*the principal*) will receive 80 strokes of the heavy bamboo. (*The accessory is reduced one degree.*) If one calculates the amount of the property (*taken*) and [the penalty for stealing that amount] is more serious than (*the penal servitude and beating with the heavy bamboo*) of this offence, then, in each case add one degree to the penalty for theft. (*Each will have one degree added to the penalty for*

*a supervisor or guardian himself stealing* [Art. 264], *non-manifest theft* [Art. 269], *or theft* [from a granary or treasury] *by an ordinary person* [Art. 265]. *If he has not carried [the trees] off, sentence on the basis of the provisions for destruction* [of property, Art. 98].)

#### Article 264. *Supervisors or Guardians who Themselves Steal Money or Supplies from Granaries or Treasuries.*

1. Whenever a supervisor or guardian himself steals money, supplies, or similar things from a granary or treasury, do not distinguish between principal and accessory. Punish on the basis of all the illegally obtained property taken together. (*'All the illegally obtained property taken together' means that if 10 persons on several occasions have together stolen [a total of] 40 taels of government silver, then, although each appropriates 4 taels for himself, if it is computed all together, these 10 men have each taken 40 taels.* [Each is punished for 40 taels.] All are beheaded. If 10 persons together steal 5 taels, then each *receives 100 strokes with the heavy bamboo. Anyone who is guilty of a third offence will be strangled. This is the actual sentence* [and will not be changed as in the case of a miscellaneous offence.]

2. Moreover, on the right forearm tattoo the three words 'stole government money/supplies/things'. (*Each character will be 1.5 cun on a side. Every stroke will be 0.15 cun wide. On the top [the tattoo] will not pass the joint of the elbow, and at the bottom it will not go below the wrist. The other provisions are applied in the same way.*)

[The punishment will be awarded in accordance with the amount of silver stolen as follows:]

Less than 1 tael, 80 strokes with the heavy bamboo.

1 to 2.5 taels, 90 strokes with the heavy bamboo.

5 taels, 100 strokes with the heavy bamboo.

7.5 taels, 60 strokes with the heavy bamboo and one year of penal servitude.

10 taels, 70 strokes with the heavy bamboo and one and a half years of penal servitude.

12.5 taels, 80 strokes with the heavy bamboo and two years of penal servitude.

15 taels, 90 strokes with the heavy bamboo and two and a half years of penal servitude.

17.5 taels, 100 strokes with the heavy bamboo and three years of penal servitude.

20 taels, 100 strokes with the heavy bamboo and exile to 2000 li.

25 taels, 100 strokes with the heavy bamboo and exile to 2500 li.

30 taels, 100 strokes with the heavy bamboo and exile to 3000 li. (*This is a miscellaneous offence. The three degrees of exile will be changed to penal servitude for four years.*)

40 taels, beheading. (*This is a miscellaneous offence. [The penalty is changed to] five years of penal servitude.*)

**Article 265. An Ordinary Person Who Steals Money or Supplies from the Granary or Treasury.**

Every ordinary person (*all of those who are not supervisors or guardians*) who steals from a granary or treasury (*the offence is wrongful taking and removing [property] from the granary or treasury*) money and supplies will, if (*when the matter is discovered*) he has not obtained any property, receive 60 strokes of the heavy bamboo. (*In the case of an accessory, reduce one degree*). But if he acquires property, then do not distinguish between principal and accessory, but sentence for all the property obtained taken together. (*'All the property obtained taken together' is the same as above [i.e. in Art. 264].*) Moreover, on the right forearm tattoo the three characters, 'stole government money/supplies/things'.

[The sentence will be determined according to the amount taken as follows:]

Less than 1 tael, 70 strokes with the heavy bamboo.

1 to 5 taels, 80 strokes with the heavy bamboo.

10 taels, 90 strokes with the heavy bamboo.

15 taels, 100 strokes with the heavy bamboo.

20 taels, 60 strokes with the heavy bamboo and one year of penal servitude.

25 taels, 70 strokes with the heavy bamboo and one and one-half years of penal servitude.

30 taels, 80 strokes with the heavy bamboo and two years of penal servitude.

35 taels, 90 strokes with the heavy bamboo and two and one-half years of penal servitude.

40 taels, 100 strokes with the heavy bamboo and three years of penal servitude.

45 taels, 100 strokes with the heavy bamboo and exile to 2000 li.

50 taels, 100 strokes with the heavy bamboo and exile to 2500 li.

55 taels, 100 strokes with the heavy bamboo and exile to 3000 li. (*This is a miscellaneous offence. The three degrees of exile will be [changed to] four years of penal servitude.*)

80 taels, strangulation. (*This is a miscellaneous offence. The punishment will be [changed to] five years of penal servitude. The supervisors and guardians who are on duty will be punished on the basis of failing to discover [Art. 131].*)

## CHAPTER 2

*General Public Disorder and Theft: 2**Article 266. Theft with Force.*

1. In the case of a theft with force when it has been committed but no property has been taken, each [offender] will receive 100 strokes of the heavy bamboo and exile to 3000 li. But if property is obtained (*from an owner*), do not distinguish between the principal and accessory. All will be beheaded. (*Even if there is one who does not share in the illegally obtained property, he is also sentenced [to the penalty of beheading]. If the author of the plot does not participate in its execution and also does not share in the property, he will be sentenced to 100 strokes of the heavy bamboo and exile to 3000 li. Among the [other] thieves, those who do not participate in the execution [of the theft] and who do not share in the illegally obtained property will receive 100 strokes of the heavy bamboo.*)

2. If drugs are used to dope someone with the aim of [obtaining] property, the punishment is the same (*if property is obtained, then all are beheaded*).

3. If, at the very moment when a non-manifest theft [Art. 269] is committed, there is resisting arrest, or the killing or injury of another, then all are beheaded (*with delay. Whether property is obtained or not, all are beheaded. Note the words 'at the very moment'.*) If the theft is coupled with fornication with force, the punishment is the same. (*Do not consider whether the fornication with force was completed or not. There is no distinction between principal and accessory.*) If those participating in the theft do not give their assistance [to those committing these other offences] and do not know the circumstances of the resisting arrest, killing, injuring, or fornication with force (*if, on investigation, this is certain*), they will merely be sentenced for non-manifest theft [Art. 269]. (*Distinguish between principal and accessory and whether or not property was obtained.*)

4. When, in the course of non-manifest theft [Art. 269], the owner discovers it, and the thief abandons the illegally obtained property and runs away, and the owner pursues him and he resists arrest, then sentence according to the law of 'an offender who resists arrest' [Art. 388]. (*Add two degrees to the punishment for non-manifest theft when no property is*

*obtained [Art. 269, i.e.] 70 strokes of the heavy bamboo. If there is injury of another to the extent of breaking bones or worse, then the penalty is strangulation. If he kills another, then the penalty is beheading. The punishment of the accessory is reduced one degree. In every case of theft with force where there is a confession but it is not accurate or complete, merely sentence according to the terms provided in the article on confessions in Names and General Rules [Art. 25]. If [the punishment] amounts to the death penalty, reduce one degree. It is not permitted to punish on the basis of 'doing that which ought not to be done' [Art. 386] according to the heavier penalty. When someone commits non-manifest theft [Art. 269] and injures another and confesses, he only avoids the penalty for theft. He is still sentenced according to the law of injuring another in an affray [Art. 302].)*

## CHAPTER 3

### General Public Disorder and Theft: 3

#### Article 267. Taking Away Prisoners by Force.

Everyone who takes away a prisoner by force will (*without distinction between principal or accessory*) be beheaded (*with delay*. But [the offence is complete when] *he attacks with force*. It is not necessary that he obtain the prisoner.) In a case where someone privately and secretly releases a prisoner so that he runs away, he receives the same penalty as the prisoner. If [the penalty] extends to death, then reduce one degree. (*Although they are relatives within the degrees of mourning, it will be considered as if they were ordinary people*.) If someone acts stealthily [to release a prisoner] but does not obtain the prisoner, he will be sentenced to the penalty of the prisoner reduced two degrees. If he injures another he will be strangled (*with delay*). If he kills another he will be beheaded (*with delay*. Even if the person wounded or killed is the prisoner whom he sought to release, he is still penalized as above. Do not consider whether or not he has obtained the prisoner.) If he is an accessory, then each penalty will be reduced one degree. (*This relates both to the provision on stealthily taking the prisoner, and to the provision on acting stealthily but not obtaining the prisoner*.) If an official having jurisdiction has sent someone to collect money or supplies, to take care of public matters, or to arrest an offender, then as to those who gather a crowd on the road to strike them and to take the [prisoners] away, (*the principal*) will receive a penalty of 100 strokes with the heavy bamboo and exile to 3000 *li*. If there is injury to the person sent on the mission, the penalty will be strangulation (*with delay*). If they kill someone, or the crowd is as many as 10 (*for 9 persons and below*, [those who gather the crowd will] *merely be punished as in the former provision for gathering a crowd*), the principal will be beheaded (*with delay*). Those who have with their own hands caused mortal injury will be strangled (*with delay*). Accessories will in each case receive penalties reduced one degree. If someone leads persons in his household to strike and take away [prisoners], only punish the superior and eldest [member of the household]. If persons from the household also injure others, they will be punished according to the [general rules] for principal and accessories among ordinary

persons. (*The head of the household is sentenced to beheading. The accessory is sentenced to exile. Killing people is not mentioned here because [the case] that is less serious is set out in order to include [the case] that is more serious. [The lighter offence, injury, includes the more serious, killing.] If the beating and taking away do not take place on the road but in the house, and the one doing the striking and carrying away was originally not the person who was being arrested, then sentence according to the improper use of force to question [torture] in a private house [Art. 312]. As for the one who causes another to strike [someone], sentence according to the law of instigating another [to commit a punishable act] [Art. 365]. If the person who was originally to be arrested himself strikes, then if he has committed an offence, sentence him according to the rule for a person resisting arrest [Art. 388]. If he has not committed an offence, sentence according to the law on striking those sent to collect taxes or to direct an official matter [Art. 310]. Note: this law note appears originally in the So Yan [a book explaining the Code].*)

#### Article 268. Wrongful Taking in the Daytime.

(*When the persons [involved] are few and there are no deadly weapons, then this is wrongful taking. When the persons [involved] are many and there are deadly weapons, then this is plundering by force. This note is based on the Jian Shi [Expository Commentary of Wang Kentang]. Originally it was inserted in the first sentence of the article following the words, 'wrongful taking'. It was changed [to this position] in the third year of Yong Zheng.*)

1. In every case of wrongfully taking away the goods of another in daytime (*do not calculate the quantity of illegally obtained property*), [the penalty is] 100 strokes of the heavy bamboo and penal servitude of three years. If, when the amount of the illegally attained property is calculated, (*a sentence is prepared [on the basis of] the aggregate of the illegally obtained property [according to the law of non-manifest theft, Art. 269]*), and [the resulting penalty for theft] is more serious than this penalty, then add two degrees to the penalty for non-manifest theft. (*The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) If there is injury of another, (*the principal*) is beheaded (*with delay*). The penalty of accessories is reduced (*from that of the principal*) one degree. The two characters, 'wrongful taking', should be tattooed on the right forearm.

2. For all those who, as the result of a fire, or because a ship is thrown into the shallows by wind, wrongfully take away another man's goods or destroy and breach the ship, the penalty will be the same. (*This offence will be punished as in the case of wrongful taking* [above].)

3. In the case of one who [originally] had a fight with another or arrested someone and then secretly stole his property, calculate the value of the illegally obtained property and sentence as if it were non-manifest theft [Art. 269]. If it was taken away [openly], add two degrees. The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 *li*. There is no tattooing. If (*in the case of theft and taking away*) there is killing or injury, then each [offender] will be punished in accordance with the [rule on killing or injuring] with intention or in an affray [Art. 290]. (*If these people* [the victims] *do not dare to resist, and are killed, then* [the killing] *is said to be intentional. If they have resisted, and then are killed, this is said to be* [killing in] *an affray.*)

CHAPTER 4

*General Public Disorder and Theft: 4*

Article 269. *Non-Manifest Theft.*

1. In every case of non-manifest theft, when the act is complete but no property is obtained, the penalty is 50 strokes of the light bamboo. There will be no tattooing. If property is obtained, (*do not consider whether* [the thieves] *divided the property that was illegally obtained or did not divide it*), sentence on the basis of one owner who is the most important and sentence each participant for the aggregate of the property illegally obtained. As for accessories, each (*refer to the above provisions on whether he did or did not obtain property*) will have his sentence reduced one degree [*i.e.* receive a penalty one degree less than that of the principal]. (*To 'take one owner as the most important' means, if property is stolen and obtained from two households, adjudge the penalty for the household whose property was greater in value. To sentence according to 'the aggregate of the goods illegally obtained' means, if 10 persons jointly steal and obtain the property from one household, and the amount is valued at 40 taels, then although each receives 4 taels, it is aggregated* [in arriving at the sentence]. *Each of the 10 men receives the penalty for* [the theft of] *40 taels. The one who plans* [the theft] *is the principal. He receives 100 strokes of the heavy bamboo. The others are accessories. Each is reduced one degree. Their punishment is limited to 90 strokes of the heavy bamboo. The other provisions may be applied similarly, mutatis mutandis.*) If it is the first offence, tattoo on the right forearm the words, 'stole stealthily'. The second time, tattoo [the same words] on the left forearm. For the third offence [the thief] will be strangled (*with delay*). Punish on the basis of the tattoos that have already been applied.

2. The penalty for pickpocketing is the same.  
[The penalty is awarded on the basis of the amount stolen as follows:]

- Less than 1 tael, 60 strokes of the heavy bamboo.
- 1 to 10 taels, 70 strokes of the heavy bamboo.
- 20 taels, 80 strokes of the heavy bamboo.
- 30 taels, 90 strokes of the heavy bamboo.
- 40 taels, 100 strokes of the heavy bamboo.

50 taels, 60 strokes of the heavy bamboo and one year of penal servitude.

60 taels, 70 strokes of the heavy bamboo and one and a half years of penal servitude.

70 taels, 80 strokes of the heavy bamboo and two years of penal servitude.

80 taels, 90 strokes of the heavy bamboo and two and a half years of penal servitude.

90 taels, 100 strokes of the heavy bamboo and three years of penal servitude.

100 taels, 100 strokes of the heavy bamboo and exile to 2000 *li*.

110 taels, 100 strokes of the heavy bamboo and exile to 2500 *li*.

120 taels, 100 strokes of the heavy bamboo and exile to 3000 *li*.

Over 120 taels, strangulation (with delay).

3. In the case of the third offence, do not consider the amount of the illegally obtained property. Strangle (*with delay*).

## CHAPTER 5

*General Public Disorder and Theft: 5***Article 270. *Stealing Horses, Cattle, and Other Livestock.***

1. In the case of anyone who steals horses, cattle, asses, mules, swine, sheep, chickens, dogs, geese, or ducks from among the people, compute (*the value*) of the illegally obtained property and sentence on the basis of non-manifest theft [Art. 269]. If he steals government livestock, then sentence on the basis of an ordinary person stealing government property [Art. 265].

2. If he steal horses or cattle (*this refers to both government and private [property]*) and kills them, (*do not compute the value but simply*) sentence to 100 strokes of the heavy bamboo and penal servitude of three years. If [he steals] asses or mules, then sentence to 70 strokes of the heavy bamboo and penal servitude of one and one-half years. If, when the value of the illegally obtained property is calculated, (*compute the value of the [animals] that have been killed as illegally obtained property, [and if the punishment for theft of that amount] is more serious than (penal servitude of three years or one and a half years)—the penalties for the acts [of killing]—then add to the penalty for theft (non-manifest theft [Art. 269] or theft [of goods from a granary or treasury] by the ordinary person [Art. 265]) one degree.*

**Article 271. *Stealing Rice and Wheat from Fields.***

1. In the case of everyone who steals rice, wheat, vegetables, and fruit from a field or who [steals] utensils or objects which no one is guarding. (*This means things for which no guards were provided and things for which there was no need or way to provide guards. Note: this was originally in the Jian Shi [Expository Commentary of Wang Kentang].*) Calculate the value of the illegally obtained property and sentence as if it were non-manifest theft [Art. 269]. There is no tattooing.

2. In the case of anyone who, in the mountains and plains, without authorization, takes firewood, grass, wood, stone, and the like, which

someone else has already gone to the trouble of cutting or gathering, the punishment is the same. (*If, although the firewood, grass, wood, or stones are not in their original location, they have not been carried away, sentence to 50 strokes of the light bamboo [the penalty for non-manifest theft] when no property is obtained [Art. 269]. If, in connection with the above provision, there is resistance to arrest, sentence according to the provision on resisting arrest [Art. 388].*)

## CHAPTER 6

*General Public Disorder and Theft: 6***Article 272. Relatives Who Steal from Each Other.**

1. All relatives (*whether in the same clan [the paternal line], the maternal line, or by marriage*) who do not live together and who steal money or things from each other (*this includes the cases in the two clauses below involving superior or elder and inferior or younger [relatives]*), will be punished as follows: relatives of one year of mourning [second degree], reduce five degrees from the punishment for ordinary persons; relatives of the third degree of mourning, reduce four degrees; relatives of the fourth degree of mourning, reduce three degrees; relatives of the fifth degree of mourning, reduce two degrees; relatives for whom one does not wear mourning, reduce one degree; there will be no tattooing. (*If, among the offenders, there are a principal and accessories, and the degree of mourning is not the same, then each will have his punishment reduced according to his own degree of mourning, and the accessory will be reduced one degree more [from the penalty of a principal for his degree of mourning].*) If there is a theft committed with force [Art. 266] which has been committed by a superior or elder relative against an inferior or younger, then (*in accordance with the provisions [of Art. 266] for the case where there have been acts [of force] in an effort to steal, whether or not property was taken*) each will have his sentence reduced according to the above [provision]. If the inferior or younger relative offends against the superior or elder, then sentence as for ordinary persons. (*Such a case is not included within the reduction.*) If there is a killing or injuring (*this refers to the above two cases of non-manifest theft [Art. 269], and [theft] with force [Art. 266]*), then sentence according to the laws for killing and injuring a superior or elder or inferior or younger relative [Arts. 316-19] applying (*the*) heavier penalty.

2. If an inferior or younger relative living in the same household leads and conducts others to steal property from his own household (*if he leads and conducts relatives who do not live in the same household to steal with him, then the penalty [of the other relatives] will be reduced according to their own degrees of mourning. The punishment will be further reduced*

one degree for the accessory. If an inferior or younger person himself steals, then he will be punished merely according to the law of privately using [family property] without authority [Art. 88]. The punishment does not have to be increased, the inferior or younger relative will be punished in accordance with the law of privately using [family] property without authority [Art. 88], increased two degrees. The punishment is limited to 100 strokes of the heavy bamboo. As for the other persons (*this refers to both the principal and accessories*), reduce the penalty for general theft [Art. 269] one degree. There will be no tattooing. If there is killing or injury, then adjudge the penalty according to the [relevant] rule for the killing or injuring of a superior or elder or inferior or younger relative [Arts. 316–19]. Although the other person does not know the circumstances, he will still be punished for theft with force [Art. 266] (*both in the case of obtaining property and not obtaining property*). If the other person kills or injures someone, and the inferior or younger relative does not know the circumstances, he will still be sentenced according to the [relevant] rule for killing or injuring superior or elder and inferior or younger [relatives]. (*Calculate the penalty for unauthorized use [of family property] [Art. 88] increased [two degrees], and that for killing or injuring, and compare them and*) apply the heavier penalty.

3. As for slaves and hired servants who live in the same household, who steal the property of the head of the household or who steal from each other, (*the principal*) will have his penalty reduced from that for ordinary persons one degree, and he will not be tattooed. (*The accessory will be reduced still another degree. If the relatives in the household that is stolen from make a complaint, sentence according to the law. This is not within the provision of the General Names and Rules Part of the Code regarding relatives who may hide each others' offences [Art. 32].*)

#### Article 273. Using Intimidation to Obtain Property.

In the case of anyone who uses intimidation to obtain another's property, calculate the value of the illegally obtained property and sentence as if it were non-manifest theft [Art. 269], adding one degree. ([Sentence] *on the basis of considering one proprietor as the most important and aggregate the amounts taken [Art. 269]. Distinguish between principal and accessory. In the case where no property has been obtained, sentence as if it were non-manifest theft where property is not obtained [Art. 269] adding [one] degree.*) There will be no tattooing. If relatives of the degree of one

year of mourning and below mutually intimidate one another, when the inferior or younger offends against the superior or elder, sentence according to the law for ordinary persons. (*Calculate the value of the property illegally obtained, and sentence as if it were non-manifest theft [Art. 269], adding one degree.*) If the superior or elder relative offends against the inferior or younger, then use the law for relatives stealing from each other [Art. 272] with proportionate reductions. (*Relatives of the second degree of mourning are also punished with a reduction of five degrees [from the penalty] for ordinary persons committing the offence of intimidation. The reduction must be made from the increase of one degree to the penalty for non-manifest theft [Art. 269].*)

#### Article 274. Obtaining Property from the Government or an Individual by Deceit and Cheating.

1. In the case of everyone who deceives (*defrauds*) and cheats (*conceals matters from*) the government or an individual in order to obtain property, calculate (*the value of the fraudulently*) wrongfully obtained property and sentence as if it were non-manifest theft [Art. 269]. There will be no tattooing. If persons in the second degree of mourning or below (*do not consider whether it is a superior or elder or an inferior or younger relative, or whether they live in the same household or in different households*) deceive and cheat each other, reduce the punishment proportionately according to the law of relatives who steal from each other [Art. 272].

2. If a supervisor or guardian deceitfully obtains (*by cheating other supervisors and guardians in the same office*) the property in his charge (*these are government goods*), sentence on the basis of a supervisor or guardian himself stealing [Art. 264]. If he does not obtain it, reduce two degrees.

3. Anyone who obtains the property of another by making a false claim to it or by using deceitful schemes and traps, will be punished by calculating the value of the illegally obtained property and sentencing as if it were non-manifest theft [Art. 269]. (*If these are relatives, then also reduce according to the degree of mourning.*) There will be no tattooing.

#### Article 275. Kidnapping Persons and Selling the Person Kidnapped.

1. Anyone who devises tricks and entices and gets hold of honourable persons (*to make slaves of them*), or who kidnaps and sells honourable

persons (*to others*) as slaves, will (*without distinction between the principal and accessory and regardless of whether the person has been sold*) be sentenced to 100 strokes of the heavy bamboo and exile to 3000 li. If he makes [the person kidnapped] a wife or concubine, a son, or son's son, then (*the offender*) is given 100 strokes of the heavy bamboo and penal servitude of three years. If, because (*those kidnapped and sold do not [willingly] follow along*), there is injury (*among the kidnapped*) persons, then [the offender] is punished with strangulation (*with delay*). If someone is killed, then the sentence is beheading (*with delay*). (*The accessories will each have their penalties reduced one degree*). The person kidnapped is not punished. He will be returned to be reunited with his family.

2. If someone using the pretext of raising and adopting [a child] to have it change households buys an honourable person's child and then sells it, the penalty will be the same. (*It is not permitted to refer to the li [sub-statutes]. If the one bought becomes an adult and is then sold, this law cannot be applied.*)

3. If the party enticed agrees (*to be taken into his* [the offender's household]) or if (*two persons*) together (*agree*) on the sale of [one of them], an honourable person, to become a slave, [the one enticing] receives 100 strokes of the heavy bamboo and penal servitude of three years. If he makes [the one bought into a] wife, concubine, son, or son's son, the penalty is 90 strokes of the heavy bamboo and penal servitude of two and a half years. Reduce the penalty for the one who is enticed one degree. (*Moreover, correct his status and return him to his own family*). If he has not yet been sold, then [the punishment for] each will be reduced (*from the case where he has been sold*) one degree. If he is 10 years old or below, then, although he agrees, it is the same as the law of kidnapping and enticing. (*The one who is enticed and kidnapped is not punished.*)

4. If someone kidnaps and sells, or entices away by agreement, another person's slave, then each penalty is reduced from the penalty for kidnapping and selling, or enticing away by agreement, an honourable person, one degree.

5. If one kidnaps and sells his son or son's son to be a slave, the penalty is 80 strokes of the heavy bamboo. If it is a younger brother or sister, brother's child [*zhi*], brother's son's son [*zhi sun*], daughter's son, one's own concubine, or the wife of a son or son's son, then the penalty is 80 strokes of the heavy bamboo and penal servitude of two years. (*If one kidnaps and sells*) the concubine of a son or sons' son, reduce [the penalty] two degrees. If it is the child of the father's brother who is younger than the kidnapper, or the children or son's children of the father's brother's

sons, then the penalty is 90 strokes of the heavy bamboo and penal servitude of two and a half years. If the one sold agrees to the sale, then reduce (*the penalty for kidnapping and selling*) one degree. If [the person kidnapped or enticed] has not yet been sold, then again reduce the penalty (*for the completed sale*) one degree. Do not punish the inferior or a younger relative who is sold (*although he has agreed [to the sale], but [has done so] on the basis of obeying and following the head of the household*). Return him to his family to be reunited with it.

6. As for the sale (*with her agreement or by kidnapping*) of a wife to be a slave, and the sale of a (*superior or inferior*) relative in the third degree of mourning or below to be a slave, in each case sentence according to the law of the ordinary person when there is [sale by] agreement or kidnapping [as provided above].

7. If the person (*who has been entrusted to receive and hold the persons who are to be sold*), or the buyer, knows the circumstances, he will receive the same penalty as the principal offender (*up to death which is reduced one degree*). The broker-guarantor will have his penalty reduced (*from that of the principal offender*) one degree, and, moreover, the price will be forfeit to the government. But if he does not know the circumstances, then in both cases there is no punishment, and the price will be returned to the owner.

## CHAPTER 7

*General Public Disorder and Theft: 7*Article 276. *Uncovering Graves.*

1. Everyone who digs up (*another's*) burial mound or grave and [causes] the exterior or interior coffin to appear will receive 100 strokes of the heavy bamboo and be exiled to 3000 *li*. If he has opened the exterior and interior coffins and the corpse appears, he will be strangled (*with delay*). If he uncovers [the grave] but does not come to the exterior or interior coffin, then he will receive 100 strokes of the heavy bamboo and penal servitude of three years. (*If it is a case where someone has [merely opened the grave and] called the spirit [of the deceased], buried a container [without a body], and closed the grave, then it is also the same. The accessory will have his sentence reduced one degree.*) If (*it is a very ancient*) tomb which on its own has already collapsed, or a case in which [the coffin with the corpse in it] has not yet been carried to the grave or buried, and [in either case], someone steals the coffin with the corpse, (*the corpse is in the coffin but has not yet been carried [to the grave], or it has been carried to the grave but has not yet been buried*), the penalty is 90 strokes of the heavy bamboo and penal servitude of two and a half years. If [the offender] opens the interior and exterior coffins and the corpse appears, [punish with] strangulation. (*This is a miscellaneous offence.*) As for the thieves who take away objects, bricks, or stones [from the tomb], calculate the value of the illegally obtained property and sentence as if it were ordinary theft [Art. 269]. There will be no tattooing.

2. If an inferior and younger [relative] uncovers the grave of a senior or elder (*within the five degrees of mourning*), sentence as for an ordinary person. If he opens the exterior and interior coffins and [causes] the corpse to appear, he will be beheaded (*with delay*). If he discards the corpse and sells the land the tomb is on, his punishment will be the same. If the purchaser or his broker-guarantors know the circumstances, they will each receive 80 strokes of the heavy bamboo and the price will be forfeit to the government. The land will be returned to the relatives in the same clan. If they do not know, there is no punishment. If a superior or elder relative uncovers the tomb of an inferior or younger (*within the five degrees of*

*mourning*) and opens the exterior and interior coffins and the corpse appears, then if [the deceased] is a relative of the fifth degree, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. If it is a relative of the fourth degree or above, the sentence will be reduced accordingly one degree. (*If a paternal grandfather or grandmother, or father or mother*) uncovers the grave of a son or son's son, and opens the exterior and interior coffins and the corpse appears, he will receive 80 strokes of the heavy bamboo. Those who have reason to transfer [the corpse] and bury it somewhere else according to the rites (*both superiors and elders and inferiors and younger*), will not be punished.

3. If [there is] one who cuts up or destroys the corpse of another person or tosses the corpse into the water, then each [such person] will be sentenced to 100 strokes of the heavy bamboo and exile to 3000 *li*. (*This refers to the case where the corpse is still at home or in the field but has not yet been buried, and it is burnt, cut up, or destroyed, etc. If it is already in the coffin or buried, then sentence according to the law of uncovering the grave, opening the exterior and interior coffins, and [causing] the corpse to appear [above, para. 1]. Sentence according to the heavier penalty.*) If someone destroys and discards the corpse (*which is not yet buried*) of a superior and elder relative of the fifth degree and above, the penalty is beheading (*with delay*). If (*the corpse of another person or of a superior or elder [relative]*) is discarded but not lost, or (*if someone destroys [the corpse] just to the extent of*) cutting the hair off or injures [the corpse], in each case reduce one degree. (*If [the offender] is an ordinary person, reduce one degree from exile. If it is an inferior or younger relative, reduce one degree from beheading.*)

4. One who (*destroys or discards*) the (*corpse*) of an inferior or younger relative of the fifth degree or above will, in accordance with the penalties for an ordinary person (*destroying or discarding [a corpse], and, according to the degree of relationship, have his punishment*) reduced one degree respectively. If someone destroys or discards the corpse of a child or son's child, the penalty is 80 strokes of the heavy bamboo. If a child or son's child destroys and discards the corpse of a parent or paternal grandparent, or if a slave or hired servant destroys or discards the corpse of the head of the household (*regardless of whether or not it is dismembered or lost*), he will be beheaded (*with delay*). *The law has no provision for the case when a wife or concubine destroys or discards the corpse [of her spouse]. When such an offence occurs, memorialize for permission to proceed on the basis of the law of superior or elder relatives within the fifth degree of mourning [above, para. 3].*

5. One who, in digging in the ground, finds a corpse (*which has no owner*) and does not immediately bury and cover it up, will receive 80 strokes of the heavy bamboo. One who, in another's gravemound, and (*for*) the purpose of smoking out foxes [which are earthed there], burns the exterior and interior coffins contained in it, will receive 80 strokes of the heavy bamboo and penal servitude of two years. If he burns the corpse, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. If it is a superior or elder relative in the fifth degree of mourning or above, then each punishment will be increased accordingly one degree. (*If he burns the exterior and interior coffins, then each punishment will be increased to 90 strokes of the heavy bamboo and penal servitude of two and a half years. If he burns the corpse, then it will be accordingly increased to 100 strokes of the heavy bamboo and exile to 2,000 li. This increase of punishment is not according to the degree of relationship and mourning so that it will not exceed that for paternal grandparents.*) In the case of an inferior or younger relative, each will (*according to his mourning relationship*), be punished according to the punishment for ordinary people reduced one degree. If a son or son's son smokes out foxes on the gravemound of a paternal grandparent or parent, or a slave or hired servant smokes out foxes on the gravemound of the head of the household, he will receive 100 strokes of the heavy bamboo. If he burns the coffin, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. If he burns the corpse, he will be strangled (*with delay*).

6. One who levels the gravemound of another person for a field or garden (*although the exterior and interior coffins have not appeared*), will receive 100 strokes of the heavy bamboo. (*Moreover, he must restore it to its former condition.*) Those who have buried a corpse within the tomb belonging to someone else will receive 80 strokes of the heavy bamboo. They will receive a delay [time period] in which to bury it elsewhere. (*If someone levels the land of the tomb of a superior or elder relative [with the intention of] obtaining property to sell to another, this will be adjudged as obtaining property by deceit [Art. 274]. It cannot be decided on the basis of discarding the corpse and selling the grave [above, para. 2]. Calculate the amount of the illegally obtained property, and if the penalty based on illegally obtained property of that amount is less serious [Art. 345], still give 100 strokes of the heavy bamboo. If the purchaser knows the circumstances, then punish him according to the law of doing that which ought not to be done [Art. 386] in the heavier degree, and return the price to the government. If he does not know the circumstances, return the price to him.*)

7. If there is a dead man within their territory, and the head of the community and the residents of the area do not report it to the official having jurisdiction to investigate, but without authority transfer it to another area or bury it, they will receive 80 strokes of the heavy bamboo. If it comes to the point of losing the corpse, (*the principal*) will receive 100 strokes of the heavy bamboo. If they cut up or destroy the corpse, or discard it into water, then (*the principal*) will receive 60 strokes of the heavy bamboo and penal servitude of one year. (*The one who dismembers and discards [the corpse] will be punished with exile.*) If the corpse is discarded but is not lost, or its hair is cut off, or it is injured, then each punishment will be reduced one degree (*to 100 strokes of the heavy bamboo. If the residents of the area have themselves dismembered or destroyed [the corpse], they will still be punished with exile.*) If they take its clothes and steal them, then calculate the value of the illegally obtained property and sentence as if it were non-manifest theft [Art. 269]. There will be no tattooing.

Article 277. *Entering Another's House At Night Without Good Cause.*

Anyone who at night without good cause enters into another's house will receive 80 strokes of the heavy bamboo. If at that moment the owner of the house kills him, there is no punishment. If [the owner] detains [the trespasser], and without authority kills or injures him, reduce the penalty for killing or injuring in an affray [Art. 290] by two degrees. If [the penalty] amounts to death, then sentence him to 100 strokes of the heavy bamboo and penal servitude of three years.

Article 278. *The Harbournr of Thieves and Robbers.*

1. Everyone who is the harbournr of persons who engage in forcible theft [Art. 266] and who makes the plans [for the offence], even though he himself does not act (*together with them*) but shares in the illegally obtained property, will be beheaded. (*If he participates in the action, then it does not matter whether or not he shared in the illegally obtained property; he is [sentenced for] acting and obtaining property [Art. 266]. Do not distinguish between principal and accessory. Both will be beheaded. If he does not know the circumstances of the theft but it is merely a case*

of [the thieves] *stopping and resting temporarily, then he will be punished only for doing that which ought not to be done* [Art. 386].) If he does not act (*jointly*) and also does not share in the illegally obtained property, then he will receive 100 strokes of the heavy bamboo and exile to 3000 li. If there was joint plotting (*the harbourer did not make the plan, but along with the thieves he participated in the plotting*) and he acts but does not share in the proceeds, or he shares in the proceeds but does not act, in all these cases, he is beheaded. If he does not act and, moreover, does not share in the property, then he receives 100 strokes of the heavy bamboo.

2. If the harbourer of those who engage in non-manifest theft [Art. 269] makes the plan, and he himself does not carry it out, but shares in the proceeds, then he is to be punished as the principal. If he does not act, and does not share in the proceeds, then he will be treated as an accessory. ([He will receive the punishment] *reduced one degree*.) Consider the one who directed the others at the moment of the theft to be the principal. As for (*the harbourer who does not form the plan but merely*) acts as an accessory—he acts but does not share in the illegally obtained property or he shares in illegally obtained property but does not act—(*reduce his penalty one degree from the penalty for the one who forms the plan*). He is still sentenced as an accessory. If he does not act and also does not share in the proceeds, he will receive 40 strokes of the light bamboo.

3. If originally there was no joint plan (*but accidentally*) [the offenders] meet together and jointly engage (*in forcible* [Art. 266] or *non-manifest* [Art. 269]) theft (*if it is forcible theft, do not distinguish between principal and accessory. If it is non-manifest theft, then*) sentence the one temporarily directing at the moment of the theft as the principal. The others are sentenced as accessories.

4. If, knowing that another has kidnapped and sold or enticed someone [Art. 275], or has committed forcible [Art. 266] or non-manifest theft [Art. 269], someone shares in the (*proceeds of the sale of the stolen*) property, calculate the value of the divided illegally obtained property and sentence him as the accessory as if it were non-manifest theft. There is no tattooing.

5. If someone knows that an item is the product of forcible [Art. 266] or non-manifest [Art. 269] theft, and he intentionally purchases it, calculate the value of the thing purchased and punish as if it were illegally obtained property of that amount [Art. 345]. If he knows but still receives and hides [the illegally obtained property], reduce the penalty ([from] *that for intentional purchase*) one degree. Each penalty is limited to 100 strokes of the heavy bamboo. If he does not know the circumstances but mistakenly buys or receives for deposit, then in both cases do not punish.

### Article 279. *Joint Plotting To Commit Theft.*

(*This provision only refers to the one who plots but who does not participate [in the theft] at the time it is carried out.*)

1. When among those who plot together to commit a forcible theft [Art. 266], (*there is one*) who, at the time [the theft] is carried out, does not act, and those who act merely engage in non-manifest theft [Art. 269], the one who participated in the plot jointly (*who did not act*) but who (*did*) share in the unlawfully obtained property, (*if*) he is the one who formulated the plot (*he is*) considered as the principal of the non-manifest theft. (*But if he is*) [merely] one of the group [and not the originator of the plot he is, along with them, considered to be] an accessory to the non-manifest theft. If he did not share in the property (*but was*) the one who formulated the plot, then he is an accessory to the non-manifest theft. (*If he was*) one of those [who participated in the plot], then he receives 50 strokes of the light bamboo. (*It is necessary to investigate [the situation and determine who]*) the leader was at the moment the theft was carried out and regard him as the principal of the non-manifest theft.

2. If there are those who plan a non-manifest theft [Art. 269] jointly (*and among them there is one*) who, at the moment of the action, did not participate, but the actors committed a forcible theft [Art. 266], then the one who did not act, (*he being*) the formulator of the plot (*who*) shared in the illegally obtained property, whether or not he knew the circumstances is the principal in the offence of non-manifest theft. (*And if he was*) the one who formulated the plot, (*but*) he did not share in the illegally obtained property, or if he was one of the others [who participated in the plot], and (*he*) shared in the illegally obtained property [but was not originator of the plot], [he and the others in like circumstances] are all regarded as accessories to non-manifest theft. As among those who at the moment of the act directed and led it, and those who committed the forcible theft, do not distinguish between principals and accessories.

### Article 280. *Whether [Property] is Obtained Openly or Secretly, it is Theft.*

1. As for theft, whether [the property is] obtained openly or obtained by stealth, in both cases it is theft. (*To obtain openly means that the one carrying out the theft obtains the property in an open way, as in the case of using force to steal and wrongfully take property. To obtain by stealth*

means to act secretly, hiding one's face, and privately by stealth to obtain property, as in a secret way to steal, to reach in and take [as a pickpocket]. Both terms [refer to actions that] are theft.) In the case of things such as utensils, money, or silk (in the provisions following, both government and private [property] are referred to), [the item taken] must have been moved and have left the place of the theft. (Only then can the action be called theft.) If it is pearls, or jade, or treasure of some type, then if it has been taken into the hands and hidden, (it is theft) even if [the thief] (has not left the place of the theft). As for wood, stones, and other heavy things which are beyond the power of a man to bear, although they have been moved from their original location, so long as they have not yet been loaded [on to wagons and the like], there is still not a completed theft (and there can be no punishment for theft). Things such as horses, cattle, camels, and mules must have left their fenced enclosures. Things like falcons and dogs must have come under the control of the thief. Only then is there a completed theft. (If someone steals one horse and in addition other horses follow, it is not permitted to compute the value together [in sentencing for] the offence. If someone steals the mother and the young follow, then all [the animals] are added together to determine the punishment for the offence.)

2. This is a general rule that applies to all of the above articles on theft. If there is an incomplete theft, but there is clear evidence and witnesses who have seen it, then sentence according to the act which is complete but where no property has been obtained [i.e. Art. 269.1]. Where the theft is complete, then sentence according to the provisions of the law [for cases] where property has been obtained.

#### Article 281. Removing Tattoos.

Every thief who has been tattooed will be sent back to his place of original registration to be made to serve as a police guide. If he has been sentenced to penal servitude, he will be made to serve as a police guide upon fulfilling his sentence. If he is sentenced to exile, then he will be made to serve as a police guide in the place of exile. If there is any removing of the tattoo, then he will receive 60 strokes of the heavy bamboo and the tattoo will be replaced. (To 'serve as a police guide' means to perform service as a police runner. They follow up the traces of thieves. These police guides all have [special] registration. Therefore it is said that they are 'made to serve'.

In a case where the tattoo should not be removed, but [the one tattooed] privately uses drugs or fire [cauterization] to take off the original tattoo on the face or arm, then although he has not committed a [new theft], he will receive 60 strokes of the heavy bamboo, and the former tattoo will be replaced with a new one.)

CHAPTER 8

Homicide: I

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Article 282. Plotting to Kill Another. (No pingin)

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1. In the case of one who plots (either plots by himself or plots with another person) to kill another, the principal formulator of the plot will be beheaded (with delay). The accessories who participate in the actual killing will be strangled (with delay). If an accessory does not participate in the actual killing, then he is sentenced to 100 strokes of the heavy bamboo and exile to 3000 li. Only if the killing takes place is there punishment. (If the killing does not take place, but death is an accidental result of another cause, then merely sentence according to the provision for jointly plotting and beating another [Art. 302].)

2. If there is injury but death does not occur, then the formulator [of the plot] will be strangled (with delay), and the accessories who have participated in the act will receive 100 strokes of the heavy bamboo and exile to 3000 li. If an accessory does not participate in the act, he is sentenced to 100 strokes of the heavy bamboo and penal servitude of three years.

3. If there is plotting and action [taken to put the plot into effect] but there is no injury of another, (then the formulator of the plot as principal will be) punished with 100 strokes of the heavy bamboo and penal servitude of three years. As for the accessories, (those who plotted with him or acted with him), each will receive 100 strokes of the heavy bamboo. The co-conspirators will all be punished (even though they did not join in the act).

4. As for the one who formulated the plot (in the three cases where death has taken place, or there has been an injury, or where there has been action [but it did not result in killing or injury]), then although he himself did not, in a bodily sense, commit any act, he is still regarded as being the principal. If the accessory did not act [but only participated in plotting], then reduce the penalty for acting (but not participating in the actual killing) one degree.

5. If in consequence of the act [the offender] obtained property, then sentence in the same way as in the case of theft with force [Art. 266]. Do not distinguish between principal and accessories. All will be beheaded.

(Those who act and do not share in the illegally obtained property, or again those who do not act and do not share, will all still be punished according to the article on plotting to kill [above, para. 1].)

Article 283. Plotting to Kill an Imperial Emissary or One's Own Superior Officer.

In every case where an individual receives an imperial order to go on a mission, and the officials or clerks (in any place where he may be [during the mission]) plot to kill him, or where a person in a particular administrative district plots to kill [his own] prefect, department magistrate, or district magistrate, or where soldiers plot to kill their own superior officers, or a clerk or government runner plots to kill the officials of the fifth rank or above in his own office, if they have acted (but have not caused injury, the principal) will receive 100 strokes of the heavy bamboo and exile to 2000 li. If they have caused injury, (the principal) will be strangled. (These [provisions] on exile and strangulation do not speak of 'all'. Consequently, in the case of accessories, [their punishment] will be reduced one degree. If officials or clerks plot to kill, [execution] will be delayed. For all others the execution will not be delayed. The same applies to the following provisions on beheading.) If there has been killing, then all will be beheaded. (The accessories who participate in the actual killing [in the act of killing], as well as those accessories who do not act, those who plot to kill an official of the sixth rank or below, and those who plan to kill the assistant officials of a prefecture, department, or district to whose jurisdiction the offender is not subject, will each be punished as ordinary persons plotting to kill [Art. 282]. Note: this note was originally in the Jian Shi [of Wang Kentang].)

Article 284. Plotting the Killing of Paternal Grandparents and Parents.

1. In the case of anyone who plots to kill his paternal grandparents, parents, or his relatives of the second degree of mourning, who are of superior rank or older, or his maternal grandparents, or a husband or a husband's paternal grandparents or parents, if he has acted (regardless of whether injury has been inflicted or not—in the case of sons and sons' sons who have joined in the plot beforehand, no distinction is made between

*principal and accessory*), all are beheaded. If the killing has taken place, then all will be condemned to death by slicing. (If [the offender] dies in prison, then apply the punishment to the corpse. As for those who act as accessories, if their mourning relationship is not the same, then punish in accordance with the law for relatives of the fifth degree and above. If there is an ordinary person, then punish in accordance with the law for ordinary persons [plotting to kill, Art. 282]. In every case of a plot to kill someone within the degrees of mourning, use this [provision].) If someone plots to kill a person in the fifth degree of mourning or above, who is of superior rank or older, and some act has been executed, then (*the principal*) will receive 100 strokes of the heavy bamboo and exile to 2000 li. (*The one who acts as an accessory will be sentenced to 100 strokes of the heavy bamboo and penal servitude of three years.*) If injury has been inflicted, (*the principal*) will be strangled. (*The ones who act as accessories, whether or not they have participated in the actual killing, will be treated as ordinary persons [who plan to kill] [Art. 282].*) If death has taken place, then all will be beheaded (*regardless of whether the person is principal or accessory*).

2. If a superior or elder relative plots to kill someone (*whether in his own clan, in the maternal line, or related by marriage*) who is an inferior or younger relative, if some action has been taken, then punish in accordance with the punishment for intentional killing, reduced two degrees. If injury was inflicted, reduce one degree. If there is death, then [sentence] in accordance with the law of intentional killing. (*'In accordance with the law of intentional killing' means that each will be punished in accordance with the law for a person who is a superior or elder relative in an affray intentionally killing a relative who is inferior or junior [Art. 317]. Accessories will each be adjudged in accordance with the degree of the mourning relationship.*)

3. If a slave or a hired servant plots to kill the head of the household or his relatives of the degree of mourning of one year, his maternal grandparents, or his relatives in the fifth degree or above (*this refers to those of both superior and inferior rank, all relatives of the master whether of superior or inferior rank*), the punishment is the same as for a son or son's son. (*This means that it is the same as if a son or son's son plots to kill his paternal grandparents, his parents, his relatives of the second degree of mourning who are of superior rank or older, his maternal grandparents, or his relatives of the fifth degree or above who are superior or older. If the [slave] has already been sold, then he is sentenced in accordance with the law on honourable and mean persons fighting one another [Art. 313].*)

### Article 285. *Killing the Adulterous Lover.*

1. Whenever a wife or concubine commits adultery with another, and (*her own husband*) catches the adulterous wife and the adulterer at the place [in the very act of] adultery and immediately kills [both of] them, there is no punishment. If he merely kills the adulterous lover, the adulterous wife will be punished in accordance with the law (*on consensual adultery [Art. 366]*). The official having jurisdiction will remarry or sell her, and the price will be forfeit to the government. (*If it is lewd dalliance that does not amount to adultery, or, although the adultery is consummated, they have already been caught, or if [the husband] catches them in some other place and does not catch them in the place where the adultery is committed, then this provision cannot be used.*)

2. If the wife or concubine, because of adultery, plots to kill her own husband [and the death takes place], she will be condemned to death by slicing. The adulterous lover will be condemned to beheading (*with delay*). If the adulterous lover himself kills the husband, the adulterous wife, even if she did not know the circumstances, will be strangled (*with delay*).

### Article 286. *Plotting to Kill the Parents of a Deceased Husband.*

Whenever a (*remarried*) wife or concubine plots to kill the paternal grandparents or parents of her deceased husband, the punishment is the same as for plotting to kill (*her present*) parents-in-law [Art. 284]. (*If the wife or concubine has been divorced, do not use this law. If the parents-in-law plot to kill the remarried wife or concubine of a deceased son or son's son, sentence in accordance with the law on intentional killing [Art. 290]. When some act in execution [of the plot] has been taken, reduce the penalty two degrees [from the penalty for an ordinary person]. If there is already injury, reduce one degree [from the penalty for an ordinary person].*) If a slave (*it does not mention hired servant [here]; when the more serious case is mentioned, the meaning of the duty [in the less serious case] becomes apparent [i.e. a hired servant will also be treated like an ordinary person under these circumstances]*) plans to kill his former household head, sentence on the basis of the rule for an ordinary person [Art. 282]. (*This means that if one sells one's own slave to another, then in all cases the same [law] is applied to [the former slaves] as to ordinary persons [plotting to kill].*)

*1715* [principle] is followed in the other articles [of the Code]. In the case of a slave who has redeemed himself, the mutual obligations between master and servant of grace and loyalty still exist. If there is a plot to kill the old master, it is still adjudged in accordance with the law on plotting to kill the head of the household [Art. 284.]

## CHAPTER 9

*Homicide: 2***Article 287. Killing Three Persons from One Household.**

Anyone who kills three persons who are not (*actually guilty*) of a capital offence (*this means plotting to kill, intentionally killing, killing by setting a fire, or killing in the process of carrying out a theft*) in one household, (*This means those who live together, including even slaves or hired servants. If they do not live in the same household but they are of the same clan and are related within five degrees of mourning they are included*), or if someone dismembers (*a living*) person, (*even if it is only one person, he is still punished, and even if [the victim is guilty of] a [capital] crime, he is punished; it is not necessary that there be three persons who are not guilty of a capital offence [in the case of dismemberment], the principal*) will be sentenced to death by slicing. His property will be confiscated and given to the family of the decedent. His wife and sons (*it does not mention who [therefore] are not within the rule of punishment by attain*) will be exiled to 2000 *li*. As for the accessories (*those who participated in the actual [killing]*), they will be beheaded. (*Their property, wives, and sons are not [within the rule of] confiscation [for the family of the principal] or exile. Those who do not participate in the actual killing [e.g. an accessory who only participated in plotting] will be punished according to the offence of plotting to kill another, reduced [one] degree [Art. 282]. If someone kills three persons from one household, one after the other, it is the same. If the original plan was to kill one person, but in carrying it out three persons were killed, the one who does not act, if he is the one who formulated the plot, will be beheaded. Those who did not plot [and did not act] will be sentenced according to the rule for accessories who do not act, [i.e. the punishment is] reduced one degree from that of those accessories who acted. Sentence the temporary leader at the time of the killing of the three persons as the principal.*)

Article 288. *The Dismemberment and Appropriation of [the Bodily Parts] of a Living Person.*

In every case of the dismemberment and appropriation [of the bodily parts] of a living person (*this includes both the case in which the victim is killed and where he is injured, the principal*) will be sentenced to death by slicing. His property will be confiscated and delivered to the family of the deceased. His wife and sons and those living in his household, even though they did not know the circumstances, will be sentenced to exile to 2000 li and settled there. (*The dismemberment and appropriation [of the bodily parts] of a living person constitute one action. This means such acts as removing the ears, eyes, and viscera of a living person, and breaking his limbs and body. This is the same as cutting a person apart. But those who cut apart merely wish to kill a person and that is all. In this case someone kills a person in order to practise witchcraft and to confuse others. Therefore [the punishment] is particularly severe.*) The accessories (*who participate in the action*) will be beheaded. (*Their property and household members are not within the category of those who must be delivered [to the relatives of the deceased] or sentenced to exile. Those who do not participate in the action will be sentenced according to the law of plotting to kill a person [Art. 282], reduced [one] degree.*) If the matter is carried into execution but there is no injury of the other, (*the principal*) is also beheaded and his wife and children are sentenced to exile to 2000 li. (*The property and persons living in the same household are not within the rule of [property] being given over [to the deceased's family] or [family members] being sentenced to exile.*) Accessories who participate in the act will receive 100 strokes of the heavy bamboo and exile to 3000 li. (*If they did not participate in the act, then reduce one degree.*) The community head, if he knows [of the act] and does not report it, receives 100 strokes of the heavy bamboo. If he does not know, he is not punished. If he reports and [the offender] is caught, then the government will give, as a reward, 20 taels of silver.

Article 289. *Making or Keeping [Gu] Poison for Killing People.*

1. Everyone who (*engages*) in making and (*secretly*) keeping [gu] poison sufficient to kill people, together with the one who trains (*others to make or keep [the poison]*) will be sentenced to beheading. ([The poison] *need not be used to kill someone.*)

2. The one who makes or keeps [gu poison] (*regardless of whether or not it has been used to kill another*) will have his property confiscated by the government. His wife, children, and persons living in the same household, although they did not know the circumstances will, moreover, be sentenced to exile to 2000 li and be settled there. (*The property, wife, and sons of the person training [someone else to make and keep the poison] are not within this provision.*) If the gu poison is used to poison someone living in the same household, and if the father and mother, the wife, concubine, son, or son's son of the one who is poisoned do not know the circumstances of the making of the gu poison, they are not within the provisions for exile. (*If they do know the circumstances, then even though they are poisoned, they are still punished by attain* [because of their relationship to the perpetrator].) If the community head knows and does not report the matter, then he will receive 100 strokes of the heavy bamboo. If he does not know, he is not punished. When there is one who reports, and [as a result, the offender] is caught, the government will give him 20 taels of silver as a reward.

3. Everyone who calls up demons, or makes charms, or utters curses in order to kill another (*whether it is an ordinary person, a child or son's child, a slave, a hired servant, or a superior, elder, inferior, or younger relative*) each will be punished on the basis of plotting a killing (*when something has been done but there is no injury* [Arts. 282 and 284]). If in consequence death ensues, then each will [be punished] according to the applicable law of (*plotting*) to kill [ibid.]. If he wishes (*merely*) to cause another to become sick or to suffer (*but there is no intention of killing anyone*), then reduce (*the punishment for plotting a killing where some action has been taken but there is no injury*) two degrees [ibid.]. The children or sons' children, [who commit this offence] offend against their paternal grandparents and parents. ([The law] *does not mention wives and concubines* [who commit this offence against] *their husband's paternal grandparents or parents because the meaning of the law becomes apparent when the children and sons' children are cited*), or slaves and hired servants [who commit this offence against] the head of the household, will each not [have his sentence] reduced. (*Sentence on the basis of plotting a killing where there is some act of execution* [ibid.].)

4. If someone uses poison to kill another, he will be beheaded (*with delay. Where the poison is administered, but the victim does not die, then sentence to strangulation according to the law of plotting a killing where injury has resulted* [Art. 382].) If he buys and does not use [the poison], then he will be sentenced to 100 strokes of the heavy bamboo and penal servitude of

three years. If the one selling the drugs knows the circumstances, then he will receive the same penalty (*as the offender. If this is death, reduce it.*) If he does not know the circumstances then he will not be punished.

**Article 290. Engaging in an Affray [and Killing] or Intentionally Killing Another.**

(*'Striking' means to strike [by oneself] alone. If there is an accessory, it is said to be joint plotting and affray. If, at the moment of the act, there is the intention to kill and this is not known to the others, the killing is said to be 'intentional'. If the one who strikes in concert does not know [of the intention to kill], he is guilty only of plotting together to strike in concert. This is the reason 'intentional killing' is put together with striking in the same article and is different from 'plotting' [to kill, Art. 282].*)

1. Anyone who, during an affray, strikes and kills another, regardless of whether he has struck with the hand, or the feet, or with another object, or with a metal knife, will be punished with strangulation (*with delay*).

2. One who kills intentionally will be punished with beheading (*with delay*).

3. If several persons have formed a plot in common to strike someone, and if death thereby results, the fatal injury is considered to have been the most serious. The one who with his hand inflicted (*the fatal injury*) will be punished with strangulation (*with delay*). The instigator of the plot (*regardless of whether he has struck together with the others or not*) will be punished with 100 strokes of the heavy bamboo and exile to 3000 li. The other persons (*those who have not caused injuries which were regarded as fatal and who, moreover, were not the instigators of the plot*) will each be punished with 100 strokes of the heavy bamboo. (*The word 'each' refers both to the case where the individuals are numerous and to the case where they are not, and [both] to the case where the injuries inflicted are light and [to the case where they are] serious.*)

**Article 291. Depriving Someone of Clothes or Food.**

1. If someone takes some extraneous object (*which is capable of injuring a person*) and places it in the ears, nose, or other orifices [of another], or if he intentionally deprives someone of his clothes, food, or drink, and

[this action] injures [that person], he will, (*regardless of whether the injury is serious or not*), be sentenced to 80 strokes of the heavy bamboo. (*This means that if, in the cold months, someone takes away another's clothing, or, in the case of a hungry or thirsty person, he takes away his food or drink, or, when someone is climbing a height or mounting a horse does something like taking away the step-ladder or reins*), if this causes maiming or serious disability, then the penalty is 100 strokes of the heavy bamboo and penal servitude of three years. If [the act] causes critical disability, then the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. Take half the property of the offender, and give it to the critically disabled person for his support. If death is caused, then the punishment is strangulation (*with delay*).

2. If one intentionally uses snakes, scorpions, or poisonous insects to sting and injure another, sentence on the basis of injuring in an affray [Art. 302]. (*Examine the seriousness of the injury. If it is light, the penalty is 40 strokes of the light bamboo. If it causes critical disability, then also give the property of the offender to the victim.*) If it causes death, the penalty is beheading (*with delay*).

## CHAPTER 10

### Homicide: 3

#### Article 292. *Killing in Play, Mistaken Killing; the Unintentional Killing or Injuring of Another.*

1. Everyone who, because of play (*doing something that is capable of killing another in play, as, for example, boxing or fighting [in play] with sticks or something of the sort*) kills or injures another, or, because of being in an affray, by mistake kills or injures a bystander will, in each case, be sentenced on the basis of killing [Art. 290] or injuring [Art. 302] in an affray. (*If death results, he will be strangled. If injury results, then investigate the seriousness of the injury and sentence accordingly.*) As for one who plots to kill or intends to kill another, but who mistakenly kills a bystander, sentence on the basis of intentional killing [Art. 290]. (*If [the victim] dies, behead. [Though] injury is not referred to [in this text], still, [if there is injury], sentence on the basis of striking in an affray [Art. 302].*)

2. If someone knows that a river-crossing is deep and muddy but deceitfully claims that it is level and shallow, or knows that a bridge or ferry leaks or is rotten and is not adequate to carry people across, but deceitfully claims it to be secure and by lies causes others to cross so that a person falls into the water and dies or is injured (*this is the same as death in play*), sentence on the basis of killing or injury in an affray [Art. 290].

3. Anyone who unintentionally kills or injures another (*this is comparatively less serious than killing in play*) will be sentenced as if it were killing or injuring in an affray [Art. 290]. Redemption will be received according to the law, and the money will be given to the family (*of the person who was killed or injured. Accident means that which the ear or eye does not extend to, or what was not contemplated. For example, when one is shooting wild animals*), or when for some reason, one is tossing bricks or tiles (*and unexpectedly kills another. Or again, if, when one is climbing, one's foot slips and one falls, and one cannot control oneself and involves [harms] others. Or if one is aboard a ship which has been driven by the wind, or is riding a horse which runs wildly, or is driving a chariot at a rapid speed on a descent so that one cannot stop, or if several persons are carrying a heavy object and the strength of one is*

*insufficient to control it so that the other persons carrying it are injured. In all these cases where initially there was no intention to harm or kill another, but it happened that death or injury was inflicted on another, sentence as if it were killing or wounding in an affray [Art. 290]. Redemption will be received, according to law. [This amount] is given to the household of the one who is killed or injured. This is money for burial or medical treatment.*)

#### Article 293. *A Husband Who Beats a Guilty Wife or Concubine to Death.*

Whenever a husband kills his wife or concubine because she has struck or cursed the husband's paternal grandparents or parents ([and] *does not complain to the government* [but kills her]) without authorization, he will receive 100 strokes of the heavy bamboo. (*If the husband's paternal grandparents or parents themselves complain [to the government], he is then punished [otherwise not].*)<sup>6</sup> If the husband strikes or curses his wife or concubine and she, in consequence, commits suicide, there is no punishment. (*If the grandparents or parents are already dead or if the wife commits some other offence that does not entail the death penalty, and the husband kills her without authorization, then he will be strangled.*)

#### Article 294. *Killing a Son, Son's Son, or Slave with the Intention of Putting the Blame on Another.*

1. Every paternal grandfather, or grandmother, or father, or mother who intentionally kills a son or son's son, and every head of a household who intentionally kills a slave with the intention of putting the blame on another, will receive 70 strokes of the heavy bamboo and penal servitude of one and a half years.

2. If the son or son's son should take the body of his deceased paternal grandparents or parents, or if the slave or hired servant should take the body of the head of the household (*which has not yet been buried*) with

<sup>6</sup> The obvious meaning of this note is not, apparently, the correct one. It is said to mean that the parents, etc. must have complained of the blows or insults prior to the killing. Only then can the son make use of these acts as an excuse for killing the wife. P.-L.-F. Philastre, *Le Code Annamite*, ii. 2nd edn. (Paris, 1909; Taiwan repr. 1967), 234.

the intention of putting the blame on another, then punish him with 100 strokes of the heavy bamboo and penal servitude of three years. If it should be a superior or elder relative of the second degree of mourning, the punishment is 80 strokes of the heavy bamboo and penal servitude of two years. If [the deceased is] in the third, fourth, or fifth degree, then [the punishment will] in each case be reduced proportionately one degree.

3. If a [relative] who is superior or elder takes the corpse of an inferior or junior who is already dead, or the corpse of another person, with the aim of putting the blame on another, then punish him with 80 strokes of the heavy bamboo. (*In all the above cases, no complaint was made to the government [by those trying to put the blame on another].*)

4. If a complaint is made [by those trying to put the blame on another] to the government then, according to the seriousness of the complaint, sentence (*with the penalty which would have been given to the one wrongly accused*) [had he been convicted] on the basis of falsely accusing a law-abiding person [Art. 336].

5. As to one who, as the result (*of the intention to blame another [e.g. from blackmail from the victim of the false accusation]*), deceitfully obtains property, calculate the amount of the illegally obtained property, and sentence as if it were of non-manifest theft [Art. 269]. If there has been a forcible taking of property, then sentence as if it were wrongful taking in daytime [Art. 268]. There will be no tattooing. Each will be given the heavier penalty. (*If the penalty for putting the blame on another [Art. 336] is greater [than deceitful or wrongful taking of property], sentence according to that penalty. If the penalty for deceitful or wrongful taking is greater, then sentence for the deceitful or wrongful taking [Art. 274] or taking by force [Art. 268].*)

#### Article 295. *Injuring a Person with a Bow and Arrow.*

Everyone who, without good cause, shoots a bullet or an arrow, or tosses bricks or stones, towards an urban area or a place where people are living (*even though he does not injure anyone*), will receive 40 strokes of the light bamboo. If he injures someone, then reduce the penalty for injuring in an affray [Art. 302] one degree. (*Even if critical disability results, it does not fall within the rule of confiscation of the household property for the benefit of the injured person.*) If it leads to death, then the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. (*If the law provides*) a heavier penalty because the one injured is a [senior] relative, then

*according to the law of Names and General Rules [Art. 35] if, at the time of the offence, the offender does not know [that the victim is a relative], then the matter is adjudged in accordance with the rule for ordinary people. If this law [results in] a lighter [penalty], then follow this law, but still seek damages for burial expenses of 10 taels of silver.*)

#### Article 296. *Killing or Injuring Someone with a Carriage or Horse.*

1. Everyone who, without good cause, in streets or markets, or in a market town, gallops on a horse or drives a carriage very fast and causes injury to another, will be punished with the penalty for injuring in an affray [Art. 302] reduced one degree. If death results, the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. If (*without good cause*) in the countryside where no one lives, he gallops and causes injury to another (*if this does not cause death, then do not punish*). If it causes death, then punish with 100 strokes of the heavy bamboo. (*In the above-mentioned offences*), in all cases levy for burial expenses in the amount of 10 taels of silver.

2. If someone is hurrying because of public business and gallops and kills or injures another, then sentence on the basis of accident [Art. 292.3]. (*He can redeem with a payment of money in accordance with the law. This will be given to the family [of the victim].*)

#### Article 297. *Incompetent Physicians Who Kill or Injure Others.*

1. In the case where an incompetent physician uses medicine or needles in treating someone and mistakenly does not follow the proper measures [for their use or preparation] and, because of this, death results, then another physician must be ordered to investigate the medicines as well as the points for acupuncture. If there is no evidence of intentional harm, then sentence on the basis of unintentional killing of another [Art. 292]. (*According to the law he may redeem. [The amount paid] will be given to the family [of the victim].*) He is not permitted to [continue to] act as a physician.

2. If he intentionally violates the proper measures (*and*) fraudulently (*and intentionally*) treats (*someone's*) disease and (*increases the severity of what was a light [ailment] and makes it worse, taking advantage of the danger*

*in order*) to receive consideration, then calculate the amount of the illegally obtained property, and sentence as if it were non-manifest theft [Art. 269]. If death results as a consequence, or if for some reason (*he has privately planned to harm and has intentionally used*) drugs (*that are the reverse of the proper ones for the disease*) and kills someone, then he will be beheaded (*with delay*).

#### Article 298. Killing or Injuring Others with Spring Bows.

In the case of a hunter who hunts in the deep mountains or the wilds where wild animals go to and fro, and makes a pit or erects a spring bow and does not put up a bamboo warning pole or a small warning rope (*even though he does not injure anyone, he will*) be punished with 40 strokes of the light bamboo. If [the bow or pit] does injure someone, then reduce the penalty for injuring in an affray [Art. 302] by two degrees. If death results, the punishment is 100 strokes of the heavy bamboo and penal servitude of three years. Levy a penalty for burial expenses of 10 taels of silver. (*If it is not in the deep mountains or wilds and it causes death or injury, then follow the law of injuring or killing another by means of a bow and arrow* [Art. 295].)

#### Article 299. Putting Pressure on Another so as to Cause Him to Die.

1. Everyone who for some reason (*concerning marriage, farm lands, debts, and the like*) puts pressure on another so as to cause (*him to cause his own*) death (*on investigation it must appear that the offender had the capability of putting on pressure* [that would make the victim afraid]), then sentence him to 100 strokes of the heavy bamboo. If it is an official or clerk or other person in public service who, when it is not a public matter, puts pressure on an ordinary person so as to cause death, the penalty is the same. (*In the above two cases*) moreover, levy for the burial expense of 10 taels of silver (*and give it to the household of the deceased*).

2. If (*an inferior or younger relative*), because of some matter, puts pressure on his superior or elder relative of the second degree of mourning, so that he dies, he will be strangled (*with delay*). If [the relative] is within the third degree of mourning or below, reduce one degree respectively.

3. If, because of ([a desire to] commit) fornication, or (*in connection with*)

a theft, someone puts pressure on another, and causes the person to die, he will be beheaded (*with delay*). (*As to fornication, it does not matter whether it is consummated or not; as to theft, it does not matter whether [the offender] has obtained property or not.*)

#### Article 300. Private Agreements [with the Killer not to Complain about] the Killing of Superior or Older Relatives.

1. Whenever paternal grandparents, parents, husbands, or household heads are killed by another, and the sons, son's sons, wives, concubines, slaves, or hired servants make a private agreement [with the killer] about it [not to complain to the government], sentence to 100 strokes of the heavy bamboo and penal servitude of three years. Whenever a superior or elder relative of the second degree of mourning is killed and inferior or younger relatives have made a private agreement [not to complain to the government] about it, the punishment is 80 strokes of the heavy bamboo and penal servitude of two years. Whenever it is the third degree of mourning or below, then each punishment will be appropriately reduced one degree. If an inferior or younger relative is killed and the superior or older relatives have privately agreed [with the killer not to complain], then each (*according to the degree of mourning*) will [have his punishment] reduced from the penalty for inferior and younger relatives one degree. If the wife or concubine, son or son's son, or wives of a son or son's son, or a slave or a hired servant are killed, and the paternal grandparents, parents, husband, or the head of the household have privately agreed [with the killer not to complain], the punishment is 80 strokes of the heavy bamboo. If they receive consideration, then calculate the amount of illegally obtained property received, and sentence as if it were non-manifest theft [Art. 269]. Award the heavier penalty. (*Private agreement refers to* [an agreement] *with the said persons who must pay with their lives* [i.e. the killers]. *The illegally obtained property is forfeit to the government.*)

2. If an ordinary person privately agrees (*on behalf of some other persons*) [not to complain about the taking of] another's life, he will receive 60 strokes of the heavy bamboo. (*If he receives consideration, then he is sentenced as if it were receiving consideration and causing perversion of the law* [Art. 344].)

Article 301. *Knowing a Companion Plots to Harm [Kill].*

Everyone who knows that his companion intends to harm [kill] another, and who does not immediately prevent this and help [the victim], or after [the victim] is hurt [killed] does not make a complaint, will receive 100 strokes of the heavy bamboo.

## CHAPTER I I

*Affrays and Blows: I*Article 302. *Affrays and Blows.*

(*Quarrelling together is an affray; hitting each other is [said to be inflicting] blows.*)

1. Everyone who engages in an affray or inflicts blows (*who fights with another*) and, using hands or feet, strikes another but does not cause injury, will receive 20 strokes of the light bamboo. (*As soon as there is a blow [the offence] is committed.*) If he causes injury, or if, by using some other object, he inflicts a blow on another and does not cause injury, he will receive 10 strokes of the light bamboo. (*If he inflicts a blow with some other object*) and does cause injury, then he will receive 40 strokes of the light bamboo. (*If the skin which is struck*) turns blue or red (*and*) there is a swelling, this is an 'injury.' Anything other than hands or feet (*which is held*) is 'another object.' Thus (*if one holds*) a weapon and does not use the blade (*but uses its back or handle to strike another*), it is also ('another object'). If someone pulls out a square *cun* of hair or more, then punish with 50 strokes of the light bamboo. (*If someone strikes another*) and blood flows from the ears or eyes and there is internal injury (*to the viscera*) and [the victim] spits blood, then punish with 80 strokes of the heavy bamboo. (*If it is merely that the skin is broken and blood flows or the nose discharges blood, then still sentence for causing an injury.*) If someone uses a dirty object and soils the man's head or face (*the circumstances are much more serious than in the case of injury and therefore*) the punishment is also like this (80 strokes of the heavy bamboo).

2. If someone breaks another's tooth, or tears off a finger from the hand, or a toe from the foot, or injures one eye (*so that he can still see somewhat, and he is not yet blind*) or wounds another's ear or nose, or injures another's bone, or uses boiling water, fire, molten copper or iron, and injures a person, then the punishment is 100 strokes of the heavy bamboo. If someone has poured dirty things into a person's mouth or nose, the penalty is the same (100 strokes of the heavy bamboo). If someone breaks two teeth, or two fingers, or toes, or above, or (*completely*) shaves the hair (*off*), then the penalty is 60 strokes of the heavy bamboo and penal

servitude of one year. (*If the shaving of the hair is not complete, still leaving enough hair for a top knot, then merely sentence in accordance with the provision of pulling more than one square cun of hair out [above].*)

3. If someone injures another's tendons or injures him in both eyes, or causes an abortion, or injures someone with the blade of a knife, then punish with 80 strokes of the heavy bamboo and penal servitude of two years. (*Abortion means the child dies within the period of time assigned for caring for the victim [Art. 303] and that the foetus is more than 90 days old and that it is formed. If the child dies beyond the period for healing of wounds or the abortion is within 90 days, then follow the provision of this law as to injury from an affray and blows and do not punish for abortion.*)

4. Anyone who breaks or sprains another's limbs ([such as] *the hands or feet*), or body (*the waist or neck*), or blinds someone in one eye (*all these are [injuries] causing serious disability*) will be punished with 100 strokes of the heavy bamboo and penal servitude of three years.

5. One who blinds someone in two eyes or breaks two limbs or causes two injuries or above of a person (*two injuries such as blinding one eye and breaking one limb*) or, because of an old injury, causes him to become critically disabled, or cuts off his tongue (*so that he cannot speak at all*), or destroys a person's sexual organs (*so that the person cannot procreate*), will receive 100 strokes of the heavy bamboo and exile to 3000 li. Moreover, take half of the offender's property and confiscate it and give it to the person who was injured and critically incapacitated for his maintenance and support. (*If someone by using her contrary to reason injures a woman[\'s sexual organs], merely sentence for this offence [i.e. 100 blows and exile]. Because [the injury] does not render her incapable of procreating, it is not within the provision for confiscating half the property.*)

6. If [two or more] persons plot together to strike and injure another, then each will be punished for the most serious of the injuries he committed with his own hand. The originator of the plot (*if he did not himself strike a blow or, although he struck, [the injuries that he inflicted] were slight*), will have his punishment reduced (*from that for [inflicting a] serious injury*) one degree. (*In every case of an affray where there is no physical contact with the other person, do not punish. It is only where someone has been killed that failure to stop [the affray] is an offence. If a joint plot to strike leads to death, then although [a person involved in the plot] did not strike a blow with his own hands, or accompanied the others and knew about the plot and did not act to help the victim or*

*prevent [the act], any [such person] will be punished according to the particular law for that offence [Art. 301?] and sentenced to 100 strokes of the heavy bamboo. If several persons have acted together to strike another and the injuries are all fatal, then take the last one to strike with his hands as being the one guilty of the most serious offence and give him the heaviest punishment. If it is a confused fight and it is not known [who inflicted] the first and the last [blows], and the heaviest and the lightest wound, or if two persons together strike another and the injuries are in the same place, or if two persons at the same time each blinds the sight of the other's eye, then the one who planned the act is taken as the principal and the others are accessories. If there is no one who planned, then the one first to get into the fight with the other is the principal.*)

7. If, because of an affray, there is mutual striking and injury, then investigate the seriousness of the injuries and affix the penalty. The one who strikes subsequently and has reason to [strike] will [have his penalty] reduced (*from the set penalty*) two degrees. If death results or in the case where someone strikes an elder brother, or sister, or father's elder or younger brother (*fix the penalty according to the relevant article [Art. 318]. Although he was subsequent in striking and had reason*) [the punishment] will not be reduced, (*e.g. if A and B fight and strike each other, and A's eye is put out and B has a tooth broken, A's injury is more serious, and it is right to punish B with 100 strokes of the heavy bamboo and penal servitude of three years. B's injury is light, and it is proper to punish A with 100 strokes of the heavy bamboo. If A is the one who subsequently responded [to B's blow] with a blow, and had reason to do so, then reduce the penalty of 100 strokes two degrees. Merely give 80 strokes of the heavy bamboo. If B was the one who responded and had reason to do so, then reduce the penalty of 100 strokes of the heavy bamboo and penal servitude of three years two degrees. He will then merely receive 80 strokes of the heavy bamboo and penal servitude of two years. If [the injury] leads to critical disability, then still confiscate property for [the victim's] support. If someone beats another to death, then it is proper to take away his life.*)

Article 303. Time Limit for [Responsibility] to Care for [the Victim of] Crime [Bao Gu].

(*Bao means to care for or protect. Gu means crime. Care for the [victim of] crime [Bao Gu] means that if the injured person [whose injury was*

caused by] *blows has not yet died, the official having jurisdiction will set a time limit within which to care for him. Caring for another's injuries really protects [the offender] himself from [the consequences of] his own offence.*)

1. In every case of caring for the [victim of the] crime, (*first investigate the seriousness of the injury, whether there was the use of hands or feet, whether another object was used, or whether there was a metal knife. In each case clearly establish a time-limit for responsibility*), and order the guilty person (*who is responsible to care for the [victim of the] crime*) to have medical treatment given. If, within the period [assigned for caring for the victim of the crime], as a direct result of (*the originally inflicted*) injury, [the victim] dies (*for example, when someone strikes another and injures the head, and in consequence the wind [which causes illness] goes from the sore on the head into [the body], and because of this he dies*), then sentence on the basis of killing in an affray (*strangulation*) [Art. 290].

2. As for cases [in which death occurs] after the period of caring for [the victim of] the crime or, although they are within the period of caring for [the victim of] the crime, (*the originally inflicted*) injuries have already been cured, and the official has prepared a document [to that effect] and explained clearly (*that the person who was stricken*) died from another cause (*this means that if someone strikes another in the head and wounds him, but it is not because of the head sore that he obtains 'wind,' rather, his death was caused by another illness, then this is 'another cause'*), in such cases follow the rules for striking and injuring [Art. 302]. (*These are not within the law of paying with one's life [for killing someone].*) If it is an injury which is a fracture or something more serious [Art. 302], and if, within the period of caring for [the victim of] the crime, it is treated medically and is cured, then each offence will be reduced two degrees. (*If someone strikes with justification, then reduce the penalty for striking [Art. 302] two degrees. If there is cure within the time-limits provided for caring for [the victim of] the crime, then [the penalty] is reduced another two degrees. This is said to be the accumulation of reductions in the penalty for a crime [Art. 11].*) Even though there is recovery during the period for caring for [the victim of] the crime, if he has become maimed or seriously or critically disabled, or if, within the period for caring for [the victim of] the crime the injury is not cured (*and he dies*), then in each case the offender will receive the full penalty according to the law. (*The full penalty is the punishment for maiming, or seriously or critically disabling, that results from the injury caused by the striking [Art. 302]. Even though [the victim] dies, the sentence is the same as for injuring.*)

3. Whenever someone strikes and injures another by use of the hands, feet, or other object (*and the injury is not severe*) the limit is 20 days (*for cure*).

4. In a case where there is an injury by means of a knife, boiling water, or fire, the limit is 30 days.

5. Where there is an injury to the limbs or parts of the body, fractures of bones, or an abortion, then regardless of whether [the injury was caused by the use of] hands, feet or other objects, in all cases the limit is 50 days.

#### Article 304. Quarrels Within the Palace.

In every case of quarrelling within the palace, the punishment will be 50 strokes of the light bamboo. If the noise (*of the quarrel*) reaches the place where the Emperor is, or if blows are exchanged, then the penalty is 100 strokes of the heavy bamboo. If there is an injury [that amounts to] fracturing of bones or worse, then add two degrees to the ordinary offence of injuring in an affray [Art. 302]. If this [offence] takes place within the palace hall (*where the audiences of the Court are held*), then increase [the punishment] proportionately one degree. (*To add proportionately is as follows: [to the penalty for] quarrelling in the palace hall, add one degree. [This results in] 60 strokes of the heavy bamboo. If the noise reaches the presence of the Emperor, or if within the palace hall there is an exchange of blows, then add one degree: 60 strokes of the heavy bamboo and penal servitude of one year. If [the injury] amounts to fracture of bones or worse, add one degree to fracturing of bones within the Imperial Palace [this in turn is based on] adding two degrees to the penalty for ordinary injury in an affray, [the penalty] is increased altogether three degrees [from the ordinary penalty for fracturing in an affray]. Even if [this action] results in critical disability, the punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li. If it results in death, decide in accordance with the general rule [Art. 302]. Although the injured person has been maimed or seriously or critically disabled, a sentence to 100 strokes of the heavy bamboo will still be proposed for him. This [punishment] may be redeemed. The person who is critically disabled is also guilty and therefore there will be no confiscation of property for his support.*)

Article 305. *Striking Imperial Clansmen or Members of the Collateral Branches of the Imperial Family.*

Whenever an imperial clansman or member of a collateral branch of the imperial family is struck (*even though he is not injured*), the punishment is 60 strokes of the heavy bamboo and penal servitude of one year. If he is injured, the penalty is 80 strokes of the heavy bamboo and penal servitude of two years. If there is an injury consisting of a fracture of bones or worse, (*then this offence is*) more serious (*than 80 strokes of the heavy bamboo and penal servitude of two years* [so]) two degrees are added to the penalty for ordinary affray [Art. 302]. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years.*) If [the victim] is someone within the fifth degree of mourning (*who is either struck or injured*), then add accordingly one degree. (*This [penalty] is limited to 100 strokes of the heavy bamboo and exile to 3000 li. It may not be increased so as to amount to death.*) If there is critical disability, then punish with strangulation (*with delay*). If death, then punish with beheading (*with delay*).

Article 306. *Striking an Imperial Emissary or the Head Official in One's Own Office.*

1. In every case (*when a court minister*) receives an imperial order to go on a mission and the officials and clerks (*in the area* [where he is sent]) strike him, or whenever one of the people strikes his own prefect, department magistrate, or district magistrate, or when a military officer strikes his own superior officer, or when clerks or runners strike officials in their own office of the fifth rank or above, then punish with 100 strokes of the heavy bamboo and penal servitude of three years. If there is injury, then punish with 100 strokes of the heavy bamboo and exile to 2000 li. If there is a fracture of bones, then punish with strangulation (*with delay*). [The text does not speak of critical disability. [Thus the penalty for] *this is also limited to strangulation.*] If (*a clerk or runner*) strikes a superior official of the sixth rank or below, then in each case (*this includes the cases where they have struck, injured or fractured*) [the penalty] will be reduced from that (*for the fifth rank or above*) three degrees. (*If soldiers, civilians, clerks, or runners*) strike the assistant official or chief officers, the penalties for each will be proportionately reduced one degree. (*If [the victim] is an assistant official, reduce [the penalty] from [that for striking] the head official one*

*degree. If it is a chief officer, reduce [the penalty for striking] the assistant official one degree. If a soldier, civilian, clerk, or runner has his punishment reduced three degrees, so that [his punishment] is lighter than the penalty for ordinary affray or is the same as [the penalty for] ordinary affray [Art. 302], then in both cases this is said to be* a reduction [in the penalty] that causes it to be too light. [In such a case], add one degree to the penalty for an ordinary affray [Art. 302]. (*Both striking and injuring as well as fracturing bones are included.*) If there is critical disability, sentence to strangulation (*with delay*). If there is death (*it does not matter whether it is an imperial emissary, a head official, an assistant official, or a chief officer, still*) behead (*with delay*). If an unclassed (*miscellaneous*) official, soldier, civilian, clerk, or runner strikes an official of the third rank or above who is not one of his own superior officers, then punish with 80 strokes of the heavy bamboo and penal servitude of two years. If there is injury, then punish with 100 strokes of the heavy bamboo and penal servitude of three years. If there is a fracturing of bones, then punish with 100 strokes of the heavy bamboo and exile to 2000 li. If one strikes or [strikes and] injures (*one who is not one's own superior official*), who is an official of the fifth rank or above, then reduce (*the penalty for [striking or striking and injuring] officials of the third rank or above*) two degrees. If the reduced penalty is too light (*as compared with the ordinary penalty for an affray* [Art. 302]) or if there is a striking or [striking and] injuring of [an official of] the ninth rank or above (*up to the sixth rank*), then in each case add to the penalty for injuring in an ordinary affray two degrees. (*The text does not speak of fracturing of bones or critically disabling or causing death. In all such cases use the general penalty for an ordinary affray* [Art. 302].)

2. When anyone who is sent on a public mission away from his [permanent duty station] strikes an official having authority (*in that place*), the penalty will also be like this (*according to the penalty for striking an official of that rank who is not one's own official* [above]). The office to which the one (*who is struck*) belongs will apprehend [the offender] and decide the case. (*If an official of a department or district strikes the prefect who is over him, then use the provision for striking a superior official in one's own office, awarding the penalty for clerks and runners reduced two degrees* [Art. 307]. *If he is an official in a high position but of low rank, then sentence according to the following article regarding a superior official and an official under him who fight together* [Art. 308]. *If it is the chief officer who strikes the head official of a yamen, then sentence according to the article for striking the head official of one's own office, awarding the*

penalty for clerks or runners reduced two degrees [Art. 307]. If a [chief officer] strikes the assistant official in his own yamen and the two men's ranks are the same as provided in the following article, for ranks nine and above [Art. 309], then merely give the penalty according to the following article. If the ranks are not the same as in [the case provided for in the] following article [Art. 309], then merely apply the penalty for an ordinary affray [Art. 302]. If the assistant official and the chief officer fight together, sentence as for an ordinary affray [Art. 302].)

#### Article 307. Subordinate Officials Striking the Head Official.

Each chief officer and subordinate official in a yamen who strikes or [strikes and] injures his head official will receive the penalty for a clerk or runner striking or [striking and] injuring his head official [Art. 306] reduced two degrees. ([The law] does not say fracturing. If there is fracturing that does not cause critical disability, then merely sentence according to the provision for injuring [Art. 306].) If the assistant official strikes his head official ([The law] does not say 'injury.' If there is an injury but it did not cause critical disability, merely sentence on the basis of the rule for striking [Art. 306]), then the punishment for each will be reduced again (from the punishment of the chief officer) two degrees. (If, when the penalty is reduced two degrees, it is lighter than the penalty for engaging in an ordinary affray [Art. 302] or it is the same as the penalty for engaging in an ordinary affray, and) [thus] when the penalty is reduced it is too light, then add one degree to the penalty for engaging in an ordinary affray. (This is because they are in the relation of superior and subordinate and have the duty of [mutual] supervision.) If critical disability results, then [sentence] to strangulation (with delay). If death results, then sentence to beheading (with delay).

#### Article 308. Superior Officials Who Fight with Inferiors.

In every case where there is a fight between a supervisory official's assistant official or chief officer and an official whose rank is higher than theirs [who has a] subordinate position under the same supervisory official, or between them and members of the populace who have [or have had] official positions and have a rank higher than theirs who are within the

jurisdiction of the [same] supervisory official, the punishment is the same as in the case of an ordinary affray [Art. 302]. (In the one case, [a fight with the officials of higher rank], because of the importance of their supervisory activity, and in the other case, [the fight with the members of the populace with official rank], because of their high rank, this cannot be treated as the case of [a fight with] a subordinate official or a member of the populace.) If they are not in the same chain of command but are of the same rank and fight among themselves, then also punish as in the case of an ordinary affray [Art. 302].

#### Article 309. Officials of the Ninth Rank or Above Who Strike a Senior Officer.

Everyone who has official rank who is of the ninth rank or above who strikes an official of the third rank or above who is not in command of him ([but] to whom he owes honour regardless of whether it is a head official or an assistant official, will be punished with) 60 strokes of the heavy bamboo and penal servitude of one year. (If there is a striking, then there is a punishment. Even in the case where there is an injury that leads to internal injuries and spitting blood, the case is treated in the same way.) If it is a bone-fracture or worse, or if there is striking or [striking and] injuring (one who is not in command of him in) the fifth rank or above, or if someone in the fifth rank or above strikes or [strikes and] injures someone (who is not in command of him) of the third rank or above, in each case there will be added two degrees to the penalty for injuring in an ordinary affray [Art. 302]. ([The punishment] may not be increased to death. If the ranks of the officials are quite different, then the penalty is greater. If the titles and ranks are closer, then the penalty is less. This is distinguishing between the superiority or inferiority of the individual.)

#### Article 310. Resisting or Striking Persons Sent to Collect Taxes and Direct Official Tasks.

In a case where persons are sent by an authority to (subordinate offices) to collect taxes, or to direct an official task, and (the households that are to pay [taxes] or those who are to take part in the carrying out of the public work) resist and will not follow orders or strike the persons who

were sent, they will receive 80 strokes of the heavy bamboo. If the injury is so grave as to extend to internal injuries and the spitting of blood or worse, or (*the representative who was struck is either an official on duty or a relative who is superior or elder*), then the (*penalty*) of the offender (*for striking*) is more serious (*than in the case of an ordinary person engaging in an affray* [Art. 302], *and*) to each penalty [for causing the spitting of blood, etc.] there will be added (*to the heaviest penalty for that offence*) two degrees. The punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 *li*. If there is critical disability, then punish with strangulation (*with delay*). If death results, then behead (*with delay*). This refers to the case of those who are [expected] to pay [taxes] or who were required to assist in the carrying on of a public work—persons who are not guilty of an offence and use force to violate an order. If they have exceeded the delays for paying taxes in money or supplies, or if, in the case of public works, they have violated [an order], then these are persons who are guilty of an offence and therefore they are to be sentenced according to offenders who resist arrest [Art. 388].

**Article 311.** *Striking the Master from Whom One is Receiving Instruction.*

In the case of everyone who strikes the master from whom he is receiving instruction add two degrees to [the penalty] for ordinary persons. If there is death, then behead. (*'Everyone' does not mean only those who are becoming scholars. Common persons who are studying arts or trades are also included. The student of classical learning and his master remain in this relation all their lives. As for the other studies, if they are not yet finished or if there is a change to another work, then there is no punishment, but if the study has already been completed, then the punishment is also the same as for [those engaged in] classical learning.*)

**Article 312.** *Coercing and Binding Someone [by Abusive] Use of Power.*

Whenever a dispute (*between two persons*) arises, they should set the matter before the magistrate (*for him to decide who is right and who is wrong*). If (*an influential and powerful person*) uses his power (*to constrain and*

*coerce and (tie up and) bind another, or beats him, or locks him up in a private house, (then regardless of whether or not there is injury)* he should receive 80 strokes of the heavy bamboo. If the injury is serious enough to extend to internal injuries or spitting of blood or worse, then in each case, (*after examining the injury*) add two degrees to the penalty for injuring in an ordinary affray [Art. 302]. If it causes death, then punish with strangulation (*with delay*). If someone uses power or influence to cause (*another*) person to strike and cause death or injury, then take the one causing the other to act as the principal, and the ones who struck with their hands as the accessories. Reduce the penalty [for the accessories] (*from the penalty of the one who caused [others to act]*) one degree.

**Article 313.** *The Exchange of Blows between a Person of Honourable Degree and One of Low Degree.*

1. In every case of a slave who strikes an honourable person (*whether he strikes, or wounds, or fractures*), add to the penalty for ordinary persons [Art. 302], one degree. If [the act] causes critical disability, then the penalty is strangulation (*with delay*). If it causes death, then punish with beheading (*with delay*). As for an honourable person striking the slave of another person (*whether he strikes, wounds, fractures, or injures critically*), reduce the penalty for [striking] an ordinary person one degree. If [the victim] dies, or if [the offender] intentionally kills him, punish with strangulation (*with delay*). If slaves fight among themselves and injure or kill each other, then each [will be sentenced] according to the law for ordinary fighting, injuring, and killing [Art. 290]. If they take property from one another (*by non-manifest theft* [Art. 269], *forcible theft* [Art. 267], *fraud, swindling* [Art. 274], *or solicitation through intimidation* [Art. 273]), do not use this law (*on reduction or increase of degree. Use the ordinary provisions on striking, injuring, and killing* [Arts. 307].)

2. In the case of someone striking the slave of a relative (*in the paternal or maternal line*) of the fourth or fifth degree, if there is no fracture, there is no penalty. For fracturing and worse (*up to critical disability*), reduce the penalty for killing or injuring an ordinary man's slave by two degrees. If (*it is the slave of a relative*) of the third degree, reduce three degrees. If death results (*regardless of whether it is third, fourth, or fifth degree*), then punish with 100 strokes of the heavy bamboo and penal servitude of three years. If [the offender] kills intentionally, then punish with strangulation (*with delay*). If killing was unintentional, then there is no punishment.

3. If someone kills the hired servant of a relative (*in the paternal or maternal line*) of the fourth or fifth degree, and if there is no fracturing, then there is no punishment. If there is fracturing or above (*up to critical disability*), then reduce the penalty for an ordinary person by one degree. If (*it is the hired servant of a relative*) of the third degree, reduce two degrees. If death results, or it is an intentional killing (*regardless of whether it is a relative of the fifth degree, fourth, or third degree*), then the punishment is strangulation (*with delay*). If it is unintentional killing, then there is no penalty. (*A person who is hired to work is not the same as one who is condemned to be a slave by attain; however, there is a difference between master and servant to be noted. Therefore, in sentencing one takes into consideration the distance in relationship [of the offender] from the head of the household. [The text] does not speak of striking a servant of a relative of the second degree [because] the following article [Art. 314] has a provision regarding the household head's relatives of the second degree, or his maternal grandfather or grandmother striking his hired servant. If it is a matter of [striking] the hired servant of another person [a non-relative], then it is proper to decide according to the rule for ordinary persons.*)

## CHAPTER 12

*Affrays and Blows: 2***Article 314.** *A Slave Striking the Head of the Household.*

1. Every slave who strikes the head of the household (*whether there is an injury or no injury; among those slaves who participate, do not distinguish between principal and accessory*) will be beheaded. If they kill [him] ([whether it is a case of] *intentional killing* [Art. 290] or *striking and killing* [Art. 302], *then all of those slaves who were involved in the striking without regard to whether they are principals or accessories*), will be condemned to death by slicing. If there is an unintentional killing, then they will be strangled (*with delay*). If there is (*unintentional*) injuring, the punishment is 100 strokes of the heavy bamboo and exile to 3000 li. (*They will not be permitted to redeem*). If the slave strikes the household head's relative (*who is superior or inferior in rank*) in the second degree, or a maternal grandfather or grandmother, then he (*even though there is no injury*) will be strangled (*with delay. If he is an accessory, reduce one degree.*) If there is injury (*then as to slaves who are involved, do not enquire as to whether there is a principal or accessory nor how serious the injury is*), all will be beheaded (*with delay*). If there is unintentional killing, then reduce the penalty for striking two degrees. (*If there is an unintentional injury, then reduce again one degree. If there is intentional killing, then all slaves who participate in the striking*) will be condemned to death by slicing. If they strike a relative of the head of the household within the fifth degree of mourning (*this includes both paternal and maternal, superior or inferior relatives. One who strikes will be punished. Although there is injury*), he will also receive 60 strokes of the heavy bamboo and penal servitude of one and a half years. If [the victim] is in the fourth degree of relationship, then the punishment is 70 strokes of the heavy bamboo and penal servitude of one year. If [the victim] is in the third degree, then the punishment is 80 strokes of the heavy bamboo and penal servitude of two years. If there is fracturing or above, if [the victim] is a relative in the fifth degree, then add one degree to the penalty for [a slave] striking an honourable person [Art. 313]. If [the victim] is a relative of the fourth degree, add two degrees, and if he is of the third degree, add three degrees. If the

addition [of degrees] leads to the death penalty, then the penalty will be death (*only strangulation and not beheading. If there are only strikings, or only injuries, then each action should be punished according to its own law.*) If the victim dies (*then all the slaves who are involved in the striking*) will be beheaded. (*If there is an intentional killing, then they will also all be punished with beheading with delay.*)

2. If a hired servant strikes the head of the household or the relatives in the second degree of the head of the household, or his maternal grandfather or grandmother, (*then even if there is no injury*) he will also receive 100 strokes of the heavy bamboo and penal servitude of three years. If there is injury (*regardless of whether it is serious or not*), the punishment is 100 strokes of the heavy bamboo and exile to 3000 li. If there is fracture, then the penalty is strangulation (*with delay*). If there is death, then the penalty is beheading. (*If he strikes the head of the household, then he will be condemned to beheading to be [immediately] executed. If he strikes a second degree relative of the head of the household or his maternal grandparents, then [the punishment] will be beheading with delay.*) If there is unintentional killing, then there will be death by slicing. If there is negligent killing or injury then, in each case, the penalty is reduced from that for killing or injury two degrees. If he strikes a relative of the head of the household in the fifth degree, the penalty is 80 strokes of the heavy bamboo. [For a relative of] the fourth degree, 90 strokes of the heavy bamboo. [For a relative of the] third degree, 100 strokes of the heavy bamboo. If there is injury so serious as to cause internal injury or spitting of blood or worse, and it is [a relative of] the fifth or fourth degree, then add to the penalty for ordinary persons one degree. If it is [a relative of] the third degree of relationship, add two degrees. (*The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) If death results, then each will be beheaded (*with delay*).

3. If a slave is guilty of an offence (*whether fornication or theft—this includes all violations of the law*), if the head of the household, or a relative in the second degree of the head of the household or his maternal grandparent does not inform the official having jurisdiction, (*but privately himself*) strikes and kills [the slave], the penalty is 100 strokes of the heavy bamboo. If there is no offence and they strike and kill (*or intentionally kill*), then the penalty is 60 strokes of the heavy bamboo and penal servitude of one year. The members of the household [of the slave] (*this means the slave's husband, wife, son, or daughter*) will be freed and become honourable persons. (*If the slave is guilty of an offence, [the law] does not refer to*

*fracturing or causing critical injury. Unless [the action] leads to death, there is no penalty.*)

4. If the head of the household or the relatives in the second degree of the head of the household or his maternal grandparents strike a hired servant (*regardless of whether he is guilty of an offence*), and there is no fracturing, then there is no penalty. If there is fracturing or worse, then reduce the penalty (*for fracturing*) for ordinary persons three degrees [Art. 302]. If it leads to death, then the punishment is 100 strokes of the heavy bamboo and penal servitude of three years. If there is intentional killing, then the penalty is strangulation (*with delay*).

5. If (*a slave or hired servant*) violates the orders (*of the head of the household or his relatives of the second degree, or his maternal grandparents*) and, according to the law, they punish him ([*inflicting the punishment on*] *the part of the buttocks and thighs that is the proper place for striking*), and [the punishment] happens to cause death, or if they accidentally kill him, there is no penalty.

#### Article 315. A Wife or Concubine Striking a Husband.

1. Whenever a wife or concubine strikes a husband (*if she strikes she will be punished*), she will receive 100 strokes of the heavy bamboo. If the husband wishes to divorce her, he may do so. (*It is necessary that the husband himself make a complaint for her to be punished.*) If [the action results in] a fracture or worse, then in each case (*investigate the injury to see how serious it is*), and add three degrees to the penalty for injuring in an ordinary affray [Art. 302]. If it results in critical disability, then the penalty is strangulation (*to be executed [immediately]*). If there is death, then the penalty is beheading (*to be executed [immediately]*). If there is intentional killing, then the penalty is death by slicing. (*The use of conjured-up phantoms and Gu poisons are included in this [rule. Art. 289].*)

2. If the concubine strikes the husband or the principal wife, then add (*to the penalty for a wife striking a husband*) one degree. The augmentation may increase even if it amounts to death. (*Only strangle. Do not behead.*) If [the injury is to] *the head of the household [the husband]*, then there will be immediate execution. If [the injury is to] *the wife*, then it will be [execution] *with delay*. If it is critical disability or death or intentional killing, then it is the same as the wife striking the husband.)

3. As for the husband striking the wife, if he does not fracture, there is

no punishment. If it amounts to fracturing or worse, then reduce the penalty for an ordinary person [Art. 302] two degrees. (*The wife herself must complain. Only then can he be punished.*) First examine the couple to see if they wish to divorce. If so, decide on the penalty and decree the divorce. If they do not wish to divorce, then investigate (*the injury to see if there must be punishment*). The punishment may be redeemed by cash payment. (*Moreover, they may remain together.*) If [the injury] amounts to death, then the penalty is strangulation (*with delay. If there is intentional killing, the penalty is also strangulation.*) If there is striking and injuring of a concubine amounting to fracture or worse, then reduce the penalty for striking and injuring the wife two degrees. If [the injury] amounts to death, then punish with 100 strokes of the heavy bamboo and penal servitude of three years. If the wife strikes and injures the concubine, this is the same as the husband striking the wife. (*The concubine herself must complain for there to be punishment.*) If there is unintentional killing, then there is no penalty. (*This means that on the one hand [the perpetrator, i.e. the husband or wife] should be pardoned, because of his honourable position and, on the other hand, mercy should be shown [to the husband or wife] because of the closeness of the relationship [of the husband to the wife or concubine, and of the wife to the concubine.] It is necessary that there actually be an accident [as opposed, for example, to intention]. If this is not the case, then each will be punished according to the law. If the husband unintentionally kills the wife or concubine, or if the principal wife unintentionally kills the concubine, there is no punishment. If the wife or concubine unintentionally kills the husband, or the concubine unintentionally kills the principal wife, then there should be use of the law by analogy [paras. 1 and 2 above]. The phrase 'if there is an unintentional killing, then there is no penalty' cannot be generally applied to these two cases.*)

4. If [the husband] strikes the parents of his wife (*striking alone results in punishment*), the punishment is 60 strokes of the heavy bamboo and penal servitude of one year. If there is fracturing or worse, then [for each offence] add two degrees to the penalty for injuring in an ordinary affray [Art. 302]. If critical disability results, then the punishment is strangulation (*with delay*). If death results, then the punishment is beheading (*with delay*). *In the case of intentional killing, the punishment is also beheading.*)

#### Article 316. *Relatives of the Same Surname who Strike One Another.*

When relatives of the same surname strike one another, then although they are beyond the five degrees of mourning, the relationships of superior and inferior still exist, and if the person who is superior or older (*offends against the person who is inferior or younger*), reduce the penalty for persons engaging in an ordinary affray [Art. 302] by one degree. If the person who is inferior or younger (*offends against the person who is superior or older*), add one degree (*do not increase to death*). If death occurs (*without regard to whether it is a person who is superior or older, or a person who is inferior or younger*), decide on the basis of the rule for ordinary persons. (*If there is a killing in an affray, the penalty is strangulation. If there is intentional killing, the penalty is beheading.*)

#### Article 317. *Striking a Superior or Older Relative of the Third Degree and Below.*

Every inferior or younger person who strikes an older male or female relative of the same generation in the fifth degree of mourning who is in his own clan, or who is in the maternal line, or who is related by marriage, will be sentenced to 100 strokes of the heavy bamboo. (*He will be punishable [simply because of] the infliction of the blows.*) If it is an older male or female relative of the same generation in the fourth degree, then the punishment is 60 strokes of the heavy bamboo and penal servitude of one year. If it is an older male or female relative of the same generation in the third degree, then the penalty is 70 strokes of the heavy bamboo and penal servitude of one and a half years. If it is a superior relative, then add one degree. If the injury consists of fractures or worse, then each punishment will be proportionately increased from the penalty for wounding in an ordinary affray [Art. 302] one degree. (*The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) If [as a result] there is critical disability, (*regardless of whether the [victim] is a superior relative in the third degree of mourning or below, the penalty is*) strangulation. If death results, the penalty is beheading. (*As for strangulation and beheading in the case of elder male and female relatives of the same generation and superior relatives of one's own line in the fourth or third degree, the execution is immediate. In other cases execute after delay. [The law] does not speak of intentional killing. The punishment for this will also be*

limited to beheading.) If a superior or elder relative (*who is in [the victim's] own clan, or who is in the maternal line, or is related by marriage*) strikes an inferior or younger relative and there is no injury that results in fracture, then there is no punishment. If there is fracturing or worse, and it is (*an inferior or younger*) relative of the fifth degree, reduce the penalty for ordinary persons one degree. If it is (*an inferior or younger relative*) of the fourth degree, reduce two degrees. If it is (*an inferior or younger relative of the third degree*), reduce three degrees. If death results, then strangle (*with delay*. [The law] *does not speak of intentional killing, thus the penalty is limited to strangulation*.) Anyone who has beaten to death a younger male or female relative of the same generation on the father's side (*of the third degree*), or a child of the father's brother's son (*of the fourth degree*), or a child of the father's brother's son's son (*in the fifth degree*) will receive 100 strokes of the heavy bamboo and exile to 3000 li. ([The law] *does not speak of critical disability. Even if death results, the penalty is limited to this. Moreover, according to the law, half of the property will be given to the victim [Art. 320]*) for support. If there is intentional killing, then punish with strangulation (*with delay*. [The Law] *does not speak of unintentional killing. In each case decide the matter according to its own law and [apply] the rule of redemption. As regards the wife of the older brother, or the wife of an uncle who is the older or younger brother of the father, or the wife of the younger brother, or the wife of a relative who is inferior or younger, [all] are within the provisions of the law relating to the striking of relatives of the husband [Art. 320]. A brother's children and brother's son's children are within the provisions of the law of striking relatives of the second degree [Art. 318].*)

## CHAPTER 13

### *Affrays and Blows: 3*

#### Article 318. *Striking Superior or Elder Relatives of the Second Degree.*

Every younger brother or sister who strikes an elder brother or sister (*of the same mother*) will receive 90 strokes of the heavy bamboo and penal servitude of two and a half years. If there is an injury, the penalty is 100 strokes of the heavy bamboo and penal servitude of three years. If there is fracture, the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. If the injury is made with a knife (*regardless of whether it is serious or light*), or if there is fracturing of a limb, or the blinding of one eye, then the penalty is strangulation. (*In the above cases the law of principal and accessory [Art. 30] will be applied*.) If the victim dies, (*do not distinguish between principal and accessories*), all will be beheaded. If a brother's child strikes his uncle who is the elder or younger brother of his father or his wife, or the aunt who is a sister of his father (*these are his own superior and elder relatives of the second degree*), or if a daughter's child strikes the maternal grandparents (*although the relationship is in the fourth degree of mourning [sic], their relationships of grace and virtue are the same as the second degree*), then in each case there will be added to the punishment for (*striking an elder brother or sister*) one degree. (*The increase does not extend to strangulation. If there is injury by knife, or fracture of a limb, or blinding of an eye, then there is strangulation. If death occurs, all are beheaded*.) As for unintentional killing or injuring, in each case the penalty will be reduced from the penalty for the killing or injuring (*of elder brothers and sisters, or the father's brothers and their wives, or the father's sisters and maternal grandparents*) two degrees. (*This case does not fall within the rule of redemption*.) For intentional killing, all (*do not distinguish between principal and accessory*) will be sentenced to death by slicing. (*If an inferior or younger relative is guilty of plotting the killing, or of the intentional killing of his relatives [Art. 282] with an outsider, who has acted as the formulator of the plot, whether or not he participated in the criminal act, he [the outsider] will in each case be punished according to the general rule for ordinary persons under the*

appropriate law. He is not subject to the rule that 'all will be beheaded' or 'all will be killed by means of death by slicing'.) If elder brothers or sisters (of the second degree<sup>7</sup>) strike and kill a younger brother or sister, or the elder or younger brothers or sisters of the father strike and kill their brothers' children or their brothers' sons' children, or if a maternal grandfather or grandmother strikes and kills his daughter's child, then the punishment is 100 strokes of the heavy bamboo and penal servitude of three years. If it is intentional killing, the punishment is 100 strokes of the heavy bamboo and exile to 2000 li. (If there is [an injury] that amounts to critical disability down to fracture or below, the act will not be punished.) If there is unintentional killing, then in each case there will be no punishment.

#### Article 319. Striking Paternal Grandparents or Parents.

1. Every child or son's child who strikes his paternal grandparents or parents, or a wife or concubine who strikes her husband's paternal grandparents or parents will be beheaded. If he kills them, he will be sentenced to death by slicing. (If those who are acting as accessories have a different mourning relationship, in each case decide according to the provisions applicable to the particular degree of mourning.) In the case of unintentional killing, the punishment is 100 strokes of the heavy bamboo and exile to 3,000 li. As for injury, the penalty is 100 strokes of the heavy bamboo and penal servitude of three years. (Neither sentence allows of redemption.)

2. If a child or son's child violates an order and the grandparents or parents (decide to inflict punishment, not in accordance with the law, but instead, beat him unreasonably, and) in an improper manner beat and kill him, then they will receive 100 strokes of the heavy bamboo. If there is intentional killing (where there is no disobedience to an order, then this constitutes intentional killing), then the penalty is 60 strokes of the heavy bamboo and penal servitude of one year. If it is the legal mother [the principal wife of his father who is not his natural mother], the stepmother [the principal wife taken by the father after his first wife has died or been divorced], the caring mother [a concubine who takes the natural mother's place when she dies], or the adoptive mother who kills, (there is always a difference between these and the real mother: if there is striking and killing or intentional killing) in each case add one degree. If this (the striking and killing or intentional killing) results in the extinction of a line [i.e. all males

<sup>7</sup> If the older sister marries, she becomes a relative of the third degree.

in the direct line are dead], then [the perpetrator] will be strangled (with delay). If (a grandparent, parent, legal mother, stepmother, caring mother, or adoptive mother) strikes the wife of the son or son's son without good cause (this word 'wife of the son' also refers to [the wife of] one who has been adopted), or a son or grandson who has been adopted by the family and who has a different last name (in the case of fracturing and below, there is no punishment), and the act causes serious disability, the punishment is 80 strokes of the heavy bamboo. If it causes critical disability, add one degree. (The wives of sons or son's sons and adopted sons or sons' sons), moreover, will be ordered to return to their own clans. The wives of sons or sons' sons (who are critically disabled) will be able to require the return of the wedding presents (which they brought with them). Moreover, they will be given 10 taels of silver for their needs. An adopted child or grandchild (who is critically disabled) will receive that which comes to him (his part) of the [family] property to supply his needs. (These people are not in the category of those to whom one half of the property [of the guilty person] is distributed. If there is no property, then they should be given money like the wives of sons and sons' sons.) If death results, then each will receive 100 strokes of the heavy bamboo and penal servitude of three years. If it is an intentional killing, then each will receive 100 strokes of the heavy bamboo and exile to 2000 li. (As for the striking without good cause of the son's or sons' son's) concubine, each [penalty] will be reduced (from the penalty for striking a wife) two degrees. (She is not within the provision for returning her to her own clan or requiring the return of marriage gifts or receiving support money.)

3. If children or sons' children strike and curse their paternal grandparents or parents, or a wife or concubine strikes or curses a husband's paternal grandparents or parents, and (the paternal grandparents or parents or husband's grandparents or parents, because of their having committed this offence), strike and kill [the children, son's children, wife, or concubine as the case may be], or if there is a violation of an order, and the punishment is inflicted according to the law, and death happens to result, or if there is unintentional killing, then there will be no punishment.

#### Article 320. When a Wife or Concubine and a Husband's Relatives Strike Each Other.

1. Every wife or concubine who strikes her husband's superior or elder relatives of the second degree or below, or of the fifth degree or above (in

*the direct line, the maternal line, or by marriage*), will be punished in the same way as the husband who strikes [such persons] would be punished [Arts. 317, 318]. (*Whether she strikes or injures or fractures, in each case set the penalty according to the mourning relationship [of the victim] with the husband. When the punishment of the husband, which she will receive, is strangulation then, in accordance with the rules of the Names and General Rules Part, when such a penalty reaches death, reduce one degree to 100 strokes of the heavy bamboo and exile to 3000 li [Art. 39].*) If death results, then each will be beheaded (*with delay. The relationship of the fifth degree of mourning includes the concubine who strikes the wife's parents. [The text] does not speak of intentional killing. The penalty for this is also limited to beheading. [The text] does not speak of striking relatives of the husband with the same surname but not within the mourning degrees. The case is decided on the basis of the rule for [striking] ordinary persons [Art. 302].*)

2. If the wife strikes and injures inferior relatives [of the husband], this will be the same as if the husband had struck them [Art. 317] (*and in each case she will be sentenced according to the degree of relationship [of the victim] with the husband*). If death occurs, she will be strangled (*with delay. This includes the inferior relatives of the husband in the fifth, fourth, and third degrees, although the husband's father's brother's son's children, his father's brother's son's son's children, and persons who are his brothers' sons' children who are of the fourth degree are also included.*) If she strikes and kills the sons of her husband's brothers, the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. (*She will not be punished as the husband would be with the punishment of penal servitude.*) If there is intentional killing, she will be strangled (*with delay. She will not be sentenced to exile as the husband would be.*) If a concubine commits the offence [of striking], in each case she will be punished according to the law of ordinary affray [Art. 302]. ([The Law] *does not speak of younger male and female relatives of the same generation who are in the second degree or below [e.g. sons and daughters of one's father's brothers or sons and daughters of one's father's father's brother's son]. If she strikes the husband's younger brothers and sisters, the punishment will be the ordinary one [for the offence of striking, Art. 302], reduced one degree. The case is considered in the same way as cases of ordinary persons [striking].*)

3. If (*a relative of the second degree or below or of the fifth degree or above*) who is superior or elder strikes or injures the wife of one who is inferior or younger, then reduce the penalty for ordinary persons one degree. If it is a concubine, then reduce again one degree. If death results

(*regardless of whether it is a wife or a concubine*), then the penalty is strangulation (*with delay. Intentional killing is also punished with strangulation.*)

4. If the younger brother or sister strikes an elder brother's wife, then add one degree for the penalty for striking an ordinary person [Art. 302]. (*This [clause] does not speak of the wife striking the wife of an elder brother of her husband. It is the same as if the husband does the striking [Art. 317].*)

5. If the elder brother or sister strikes the wife of the younger brother, or the wife strikes the younger brother or sister of the husband or the wife of the husband's younger brother, then each will receive the penalty for ordinary persons [Art. 302] reduced one degree. If they strike the concubine, then the penalty of each will be reduced (*from that for striking the wife*) yet another degree. (*This [clause] does not speak of the wife striking the concubine of the husband's elder brother; this is the same as in the case of the husband striking [Art. 317]. [The Law] does not speak of the younger brother or sister striking the concubine of the elder brother or striking the wife or concubine of a male relative of the husband in the same generation who is older or younger in the third degree or below. They will also be punished in the same way as ordinary persons [Art. 302].*)

6. If someone strikes the husband of an elder or younger sister, or the wife's elder or younger brother, or if the wife strikes the husband of the husband's elder or younger sister (*relatives who are not within the degrees of mourning and are all of the same rank*), sentence on the basis of an ordinary affray [Art. 302]. If a concubine commits this offence, in each case add (*to the penalty for the husband striking or the wife striking*) one degree. (*The addition does not extend to strangulation.*)

7. If a concubine strikes the child of [another] concubine of her husband, reduce the penalty for ordinary persons two degrees. (*This is because the child is like her child.*) If she strikes the child of a wife, use the penalty for ordinary persons. (*This is to establish a difference between the children of the wife and the children of concubines.*) If the child of the wife strikes and injures the concubine of the father, add to the penalty for ordinary persons one degree. (*This is because he is in the relationship of owing honour to his father.*) If the concubine's child strikes and injures [another] concubine of his father's, there will be added two more degrees. (*Because she is like his mother, three degrees are added to the penalty for ordinary persons. The penalty is not increased so as to amount to strangulation, however.*) If death occurs, then each will be sentenced [according to the rule] for ordinary persons [Art. 302]. (*This applies to the*

provisions of this article that come after the section on the younger brothers and sisters striking the elder brother's wife. If she dies, then the penalty is strangulation. If there is intentional killing, then the penalty is beheading.)

#### Article 321. Striking the Child of the Former Husband of a Wife.

1. Everyone who strikes the child of a former husband of his wife (*This means [the stepson] who formerly lived in the same household [with his stepfather], but who now lives apart. It means striking [with or without] injury or fracturing*) will receive a punishment reduced from the penalty for ordinary persons [striking, Art. 302] one degree. If they live together, then reduce it still another degree. If death results, then the penalty is strangulation (*with delay*).

2. One who strikes a stepfather (*this also means [a stepfather] with whom one formerly lived in the same household but with whom one no longer lives in the same household*) then the penalty is 60 strokes of the heavy bamboo and penal servitude of one year. If [the injury] is fracturing or above, then add to the penalty for injury in an ordinary affray [Art. 302] one degree. If they live together, then add still another degree. (*If this results in critical disability, then the penalty is limited to 100 strokes of the heavy bamboo and exile to 3,000 li. Do not increase it to death. Moreover, give one half of the [son's] property for support.*) If death results, then the penalty is beheading (*with delay*).

3. If there is intentional killing, or if up to that time they had not lived together (*regardless of whether the [step] father strikes the [step] child or the [step]child strikes the [step] father*), then use the penalty for ordinary persons [Art. 290].

#### Article 322. A Wife or Concubine Who Strikes the Parents of a Deceased Husband.

1. In every case where the husband of a wife or concubine dies and she remarries and she strikes the paternal grandparents or parents of the deceased husband, then the penalty will be the same as for striking her parents-in-law [Art. 319]. If the former parents-in-law strike the wife or concubine of their deceased son or son's son who has remarried, this is also the same as striking the wife of the son or son's son [Art. 319]. (*If*

*the wife or concubine has been driven from the home, this law is not used. The duty [of respect] has been extinguished.*)

2. If a slave strikes the household head of his former [household] or the household head strikes his former slave, each will be punished according [to the law] for ordinary persons [Art. 302]. (*This refers to the case where [the slave] is sold to others. If the slave buys his own freedom, this law is not used. The duty [of respect] is not extinguished.*)

#### Article 323. When the Father or Paternal Grandfather Are Struck [by Another].

1. In every case in which paternal grandparents or parents are struck by another, and a child or son's child immediately (*if there is even a slight delay then use the [ordinary] law of striking in an affray [Art. 302]*) aids them and returns the blows (*of the offender who has acted cruelly*), and [the latter] is not injured to the extent of fracture, then there is no penalty. If there is fracturing or above, then reduce the penalty for ordinary affray [Art. 302] three degrees. (*Even though there is critical disability the punishment may also be reduced from exile to 3000 li to penal servitude of two years*). If death results, then decide according to the ordinary law [ibid.].

2. If paternal grandparents or parents are killed by another, and the child or son's child (*does not complain to the authorities*), but without authorization himself kills the offending person, then he will receive 60 strokes of the heavy bamboo. If he kills immediately there is no penalty. (*If there is even a slight delay, then sentence in accordance with killing without authorization [possibly 60 strokes of the heavy bamboo as above, but see Art. 388]. If he, along with the grandparents or parents, plots to strike the other person, then use the usual law of principal and accessory for ordinary persons [Art. 30]. If the paternal grandparents or parents were struck by someone with whom they are in a mourning relationship, then he may merely save them, he may not return the blows; if he does return the blows, then he is sentenced in accordance with the degree of relationship. If one of his relatives other than the parents or paternal grandparents is killed by another, and without authority he kills the one who has done the killing, the matter is investigated, and if there is no other reason, then sentence according to the penalty of the law regarding those who, without authority, kill one who has committed an offence that entails the death penalty [Art. 388], 100 strokes of the heavy bamboo.*)

## CHAPTER I 4

*Cursing***Article 324. *Cursing Another.***

Everyone who curses another will receive 10 strokes of the light bamboo. If there is mutual cursing, each will receive 10 strokes of the light bamboo.

**Article 325. *Cursing an Imperial Emissary or the Head Official of One's Own Office.***

In every case in which there is an envoy sent by the Emperor to perform a mission and the local officials curse him, or if the people within a jurisdiction curse their own prefects, department magistrates, or district magistrates, or if a soldier curses his commanding officer, or if a clerk or runner curses the head official of his unit of the fifth rank or above, then each will receive 100 strokes of the heavy bamboo. If the clerk or runner curses the head official of the sixth rank or below, then the penalty will be in each case (*—this refers to the sixth rank down to [the ninth rank and] subofficial posts—100 strokes of the heavy bamboo*) reduced three degrees. (*If civil or military persons, clerks or runners*) curse the assistant officials or chief officers to whom they are subject, the penalties will again be reduced respectively one degree, and moreover [the official] must personally have heard [the curse]. Only then can there be punishment.

**Article 326. *An Assistant or Subordinate Official Who Curses the Head Official.***

Every chief officer or subordinate official who curses the head official of the fifth rank or above, will receive 80 strokes of the heavy bamboo. If he curses a head official of the sixth rank or below, this punishment will be reduced three degrees (*to 50 strokes of the light bamboo*). The punishment of the assistant official who curses a head official will be reduced still another two degrees. (*For the fifth rank or above, the punishment is 60 strokes of the heavy bamboo. For the sixth rank or below, the punishment*

*is 30 strokes of the light bamboo.*) Moreover, it is necessary that [the one cursed] shall have heard [the curse]. Only then can punishment be inflicted.

**Article 327. *A Slave Who Curses the Head of his Household.***

Every slave who curses the head of his household will be strangled (*with delay*). If he curses relatives of the second degree or maternal grandparents of the head of the household, then the punishment is 80 strokes of the heavy bamboo and penal servitude of two years. If they are in the third degree, the punishment is 80 strokes of the heavy bamboo; in the fourth degree, 70 strokes of the heavy bamboo; in the fifth degree, 60 strokes of the heavy bamboo. If a hired servant curses the head of the household, the punishment is 80 strokes of the heavy bamboo and penal servitude of two years. If he curses relatives of the second degree and grandparents in the maternal line of the head of the household, then the punishment is 100 strokes of the heavy bamboo. If they are in the third degree, the punishment is 60 strokes of the heavy bamboo; in the fourth degree, 50 strokes of the light bamboo; in the fifth degree, the punishment is 40 strokes of the light bamboo. Moreover, the relatives must complain, and only then can there be punishment. (*Among persons whom mutually supervise each other, it is to be feared that there will be slanderous words that cause trouble, and therefore [the curse] must be personally heard. Where there are sentiments of friendship, sometimes there may be the desire to conceal [matters]. Consequently, they must personally make a complaint [to the magistrate].*)

**Article 328. *Cursing Superior or Older Relatives.***

Everyone who curses an older 'brother or sister' [a relative in the same generation] (*who is in the direct line or the maternal line*) of the fifth degree will receive 50 strokes of the light bamboo. If he curses an older 'brother or sister' [a relative in the same generation] in the fourth degree, the punishment is 60 strokes of the heavy bamboo. If he curses an older 'brother or sister' [relative in the same generation] in the third degree, the punishment is 70 strokes of the heavy bamboo. If [the one cursed] is of a superior rank (*whether of the fifth, fourth, or third degrees*), in each case one degree will be added [to the punishment]. If someone curses an elder 'brother or sister' (*a relative in the second degree with the same mother*)

the penalty is 100 strokes of the heavy bamboo. For the elder or younger brothers of the father or their wives, sisters of the father, or maternal grandparents, in each case add (to the penalty for the elder brothers and sisters) one degree. Moreover complaint must be made by [the victim] himself and only then can there be punishment. (If a younger brother curses an older brother's wife, then by analogy to the law for striking [Art. 320], add one degree to the penalty for ordinary persons [Art. 324].)

**Article 329. Cursing Paternal Grandparents and Parents.**

In every case where someone curses his paternal grandparents or parents, or if the wife or concubine curses her husband's paternal grandparents or parents, the punishment will be strangulation. It is necessary that [the victim] himself file a complaint. Only then can punishment be inflicted.

**Article 330. A Wife or Concubine Who Curses a Husband's Relatives of the Second Degree Who are Superior or Older.**

Every wife or concubine who curses a husband's relatives who are superior or older, and between the second degree or below and the fifth degree or above (either in the direct or maternal lines), will receive the same punishment as the husband receives for cursing [such persons. Art. 328]. If the concubine curses the husband, she will receive 80 strokes of the heavy bamboo. If the concubine curses the wife, the penalty is the same. If she curses the wife's parents, she will receive 60 strokes of the heavy bamboo. The [victim] must himself file a complaint. Only then can the punishment be inflicted. (The law has no provision for the wife cursing the husband. This is because the duty between those of the same rank in the interior [women's] quarters requires forgiveness. If the offence is committed, the punishment should be strokes of the light bamboo in accordance with the law of 'Doing that which ought not to be done' [Art. 386].)

**Article 331. The Wife or Concubine Who Curses a Deceased Husband's Parents.**

1. Every wife or concubine whose husband dies and who remarries (her duty not being extinguished) who curses the deceased husband's

paternal grandparents or parents will receive the same penalty as for cursing her parents-in-law [Art. 330]. (Note: if the wife has been repudiated by the husband, and the duty to the husband is extinguished, [or] if the husband's mother and the wife have both remarried, do not use this law. In addition, if the wives of the sons or grandsons remain chaste and in the household, and they curse the mother-in-law who has remarried, this is the same as cursing someone who is a relative of the second degree of the husband who is of superior rank [Art. 330]. If it is the mother in the direct line, the stepmother, the caring mother, or the adoptive mother who remarries, the matter is not within this rule of cursing the mother-in-law.)

2. If a slave (who has been sold to another so that the duty [to his former household head] is extinguished) curses the master of his old household, sentence on the basis of the law for an ordinary person [who curses, Art. 324]. (As for one who has redeemed himself [from slavery], and curses his former household head, still sentence on the basis of the law of cursing the head of the household [Art. 327].)

## CHAPTER I 5

*Procedure: I***Article 332.** *A Complaint That Does Not Follow [the Proper Order].*

1. Every complaint [law suit] brought by a military person or a civilian must be from the inferior to the superior [according to the proper order]. If someone without authority goes beyond his own superior official and brings the complaint directly before the higher official, (*even if [the complaint] is well based*), he will receive 50 strokes of the light bamboo. (*It is necessary that his own superior refuse to receive the action, or receives it and makes a mistake or irregularity. Only then is it permitted to go to the higher authority.*)

2. If someone intercepts the carriage of the Emperor or beats the drum [outside the palace provided for the people to use for petitions] and petitions, and [the petition] is not true, the penalty is 100 strokes of the heavy bamboo. If the matter (*falsely complained of*) [has a penalty] that is more serious (*than 100 strokes of the heavy bamboo*), then sentence according to the (*law of making false complaints* [Art. 336]) in the heavier (*degree*). If what [the complainant] says is true, he escapes punishment. (*If he has cut across the honour guard, then apply that article of the Code* [Art. 195].)

**Article 333.** *Making a Written Anonymous Accusation of an Offence Against Another.*

Anyone who makes an accusation of the commission of an offence by delivering it [to the yamen], (*or by affixing it [to the wall]*), in writing against another, hiding (*his own*) name, will be strangled (*with delay. Even if the matter is true, he will be punished.*) One who sees it should immediately burn it. If (*he does not burn it, but*) sends it to the official having jurisdiction, he will receive 80 strokes of the heavy bamboo. The official who receives it and takes jurisdiction, will receive 100 strokes of the heavy bamboo. As for the one accused (*even if the accusation is correct*), he will not be punished. If (*at the time of the utterance* [of the accusation])

someone seizes both (*the person* [the accuser] *and*) the accusation and sends them to the official, the government will give him 10 taels of silver in reward. (*The one who is accused will not be punished. If someone falsely writes an accusation under another's name revealing another's private affairs to injure him, or falsely constructs a document [bearing] another's [name] on a blank piece of paper bearing his seal and bribes a post-guard to send it [to the official having jurisdiction], or deceitfully places another's name on a wood placard and [uses] it to enter the Palace Treasury and does not take the name off [the record when he leaves] so as to cause injury to another, he will in all of these cases be punished with strangulation according to this law. If it is a matter of ordinary curses or, although there is an anonymous written accusation, there is no evidence that it was delivered to the official, there is no punishment according to this law.*)

**Article 334.** *Cases Where an Accusation Is Made and no Action Is Taken.*

1. In every case where there is an accusation of plotting rebellion, treason, or high treason, and the official [having jurisdiction] does not immediately receive the case (*and send someone*) to attack and apprehend [the offenders], (*then even though no harm results*) he will be punished with 100 strokes of the heavy bamboo and penal servitude of three years. (*If, because he did not take jurisdiction and attack and apprehend [the offenders], they have massed together and caused disorder, or have attacked and taken a city, or robbed and plundered the people, [the official will be sentenced to] beheading [with delay].* If there is a complaint of 'Gross Unfilialness' [Art. 2], (*such as children or sons' children plotting to kill their paternal grandparents or parents*), and [the official] does not take action, he will be punished with 100 strokes of the heavy bamboo. If there is an accusation of killing another [probably, Art. 282], or forcible theft from another [Art. 266], and [the official] does not take action, the punishment is 80 strokes of the heavy bamboo. If it is striking in an affray [Art. 302], or [a case involving] marriage [Arts. 101-17] or fields or houses [Arts. 90-100] and the like, and [the official] does not take action, then in each case, reduce the penalty for the offender [who committed such acts] two degrees. The punishment is limited to 80 strokes of the heavy bamboo. If he has received consideration (*from the one accused*), calculate the amount of illegally obtained property [and award the punishment]

which is heavier (*as between* [receiving consideration] *and causing perversion of the law* [Art. 344] *and not taking a case* [this article]).

2. If the plaintiff in the accusation and the one to be tried (*i.e. the defendant*) are in two different jurisdictions—departments or districts—the plaintiff may proceed to the official (*who has jurisdiction over*) the accused to make his accusation and have the matter settled. (*As for the officials who emphasize their separate jurisdictions and* [send the matter back and forth between themselves], *or who receive consideration and*) find excuses and do not take jurisdiction over the matter, the punishment will be the same. (*According to whether the matter is more or less serious, sentence according to the heavier penalty as between this law and the provision on* [receiving consideration] *and perverting the law* [Art. 344].)

3. If [officials] in the Board [of Punishments] or the Court [of Revisions], governors or governors-general, the Investigatory Censor, the Surveillance Commissioner, or their subordinate officials who are out on circuit in an area [learn of] a suit which ought to be heard which has not yet been brought to the office having jurisdiction, or, (*although it has been appropriately brought before it*), the case has not yet been decided, they (*the officials of the said Board, Court, etc.*) will establish a file and set a time-limit and send the matter back to the proper office to conduct the interrogation, obtain the decision with its reasons, and settle the case. If there is delay or error, and (*the Boards, Courts, etc.*) do not immediately move to correct it, [the responsible officials] will receive the same penalty as the official or clerk who is seized of the affair. (*If it is a light matter, then punish the clerk, according to the provision for delay of ten days or more in the delivery of a government document* [Art. 67] *with 40 strokes of the light bamboo. If it is serious, then punish on the basis of 'not deciding promptly' so as to cause mismanagement of a public affair by delay* [ibid.] *with 80 strokes of the heavy bamboo.*)

4. If a complaint has been made to the proper office having jurisdiction and it has not received the case, or the matter has been decided but the decision is not correct, and the persons affected seek redress for error, each [superior] yamen (*Boards or Courts etc.*) will immediately investigate it. If they assert pretexts for failing to take the case, transfer it to other [offices], or send the matter back to the original office to decide, then sentence according to the law of a complaint being made and refusing to take cognizance [above].

5. [In a case where] a complaint is sent to, and the interrogation conducted by (*the competent office*), or in a case of a great or small public matter, (*whether it is one in which it has itself acted and taken jurisdiction,*

*or one that a superior jurisdiction has referred to it*), the office itself must decide the matter. It cannot be transferred or delegated. (*This can cause injustice and harm.*) If there is a violation [of this provision], then sentence according to whether the subject matter of the suit was serious or not serious. (*If it was a public matter punishable with strokes of the heavy bamboo, then punish with strokes of the heavy bamboo. If it is one [punishable with] strokes of the light bamboo, then punish with strokes of the light bamboo. If it was a death penalty, and the accused has been executed, then award the same penalty. If [the sentence] has not yet been executed, then reduce [one] degree. If the penalty is penal servitude or exile, then award the penalties of penal servitude or exile.*)

#### Article 335. Cases Where [Officials] Should Recuse Themselves.

Whenever an official or clerk has a relationship of a degree of mourning with a party to an action, or if their households are connected by marriage, or if one is a master [teacher], (*or one [of the parties] was formerly his superior in office, or if he is from the same place of origin and has a superior government position*), or if formerly there was enmity between them, then he should transfer the documents and recuse himself from the case. If there is a violation [of this rule], (*then even though the penalty is not increased or decreased*), punish with 40 strokes of the light bamboo. If the penalty is increased or decreased, then sentence as for intentionally increasing or decreasing a sentence [Art. 409].

#### Article 336. False Accusations.

1. In the case of anyone who falsely accuses another of an offence punishable with strokes of the light bamboo, sentence him to the penalty of the offence of which he falsely accused [the other], increased two degrees. If the penalty is exile, penal servitude or strokes of the heavy bamboo (*regardless of whether it has been executed and the accused has gone to the place of punishment or not*), add three degrees to the offence falsely complained of. Each penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li. (*Do not increase to the extent of strangulation.*) If the person falsely accused of an offence punishable with penal servitude has already performed the labour, or a person sentenced to exile has already

gone to the place of exile, then, although the matter has been corrected, and he has been released and returned home, (*it is necessary to*) investigate the number of days (*from the time he was seized until he returned home*), and then to seize property from the false accuser for the expenses of the journey (*of the wrongly accused person*). If [the one falsely accused] has already sold lands or houses by *dian*, the offender [the false accuser] must provide the consideration to redeem them. If, as a result of the sentence, it happens that one of the relatives for whom he wears mourning who accompanied him [into exile] dies, then punish the false accuser with strangulation (*with delay. In addition to the expenses [of the journey] and reimbursement [of redemption expenses]*), take half the offender's [false accuser's] property and give it to the wrongly accused person. If the offence which was the subject of the false accusation is punishable with death, and the sentence has already been executed, (*then, according to whether the original law imposes strangulation or beheading*), sentence (*the accuser*) to death. (*Although there is a sentence of death, still order him to make compensation and [enable the victim's family] to redeem property [sold by dian] and to provide maintenance and support.*) If [the sentence] has not been executed, punish him with 100 strokes of the heavy bamboo and exile to 3000 li. (*Then at the place of exile*), sentence him to an additional three years of penal servitude.

2. If the offender is poor and cannot make recompense for the expenses of the journey or redeem the land and house, or has no property that he can be forced to deliver [to the victim], then he simply receives the penalty.

3. If the one who is falsely accused falsely alleges that which is not true in order to calumniate the guilty person [the original false accuser], then inflict on him the penalty for [the offence of which] he accused the other. The other—the original false accuser—is only punished for his own penalty. (*Thus, if the one who is falsely accused has not lost a relative [who accompanied him into exile] but falsely says that he has, or [as in para. 1 above] if he takes another person's corpse and claims falsely that it is his relative's and thus falsely accuses the false accuser, then he also is sentenced to strangulation. The one who made the original [false] accusation will be sentenced to the penalty for the offence he accused the other of, without any augmentation of paying expenses for the journey, redeeming land or house property [sold under dian], or paying over half his property.*)

4. If someone accuses [another] of two or more [offences], and the more serious is true and the defendant makes a false confession of having committed the less serious one, or there are several [offences] (*which are not the same, but the*) penalties (*for them*) and the accusation as to one

[offence] is correct, then the accuser avoids penalties for all. (*It is provided in the Names and General Rules that 'if the [penalties for the offences] are the same, sentence for one'* [Art. 26]. *Do not sentence for each. Therefore, when one accusation is true, he [the false accuser] avoids any penalty.*)

5. If someone accuses another of two or more [offences] and the least serious is true, but the [defendant] falsely confesses to a more serious matter, or if someone accuses [another] of one offence and falsely states a less serious matter to be a more serious matter, (*then apart from the one falsely accused being given what his offence requires, everything else is surplusage*). In all these cases, sentence [the false accuser] (*on the basis of*) the excess (*offences which are not true*). If there has already been a decision that has been executed, (*then regardless of whether it is [an offence involving penalties of] light bamboo, heavy bamboo, penal servitude, or exile*) in all cases he will be awarded the penalty for the excess offences. If there has not yet been decision and execution, (*then if [the offence] that was the subject of the false accusation entails*) strokes of the light or heavy bamboo, he may redeem. If it is penal servitude or exile, [the punishment] will be limited to 100 strokes of the heavy bamboo. For the rest of the penalty he may redeem. (*This means that if someone falsely accuses another of a major offence when [he is guilty of a] minor offence and the punishment extends to penal servitude or exile, for every degree of penal servitude, punish [the false accuser] with 20 strokes of the heavy bamboo. If [the accusation increases the penalty] from penal servitude to exile, the three degrees of exile may be considered as penal servitude of four years. Each year regarded as excess will be converted to 40 strokes of the heavy bamboo. If [the accusation is of an offence entailing] exile to a distant place when the [offence actually committed entailed] exile to a near place, then each degree of exile will be converted to half a year of penal servitude for the excess. Give 20 strokes of the heavy bamboo [for each excess degree]. As for redeeming, this means that if someone accuses another of two [offences], and one [offence] that entails 50 strokes of the light bamboo is false, and another [offence] that entails 30 strokes of the light bamboo is true, then as to the 50 strokes of the light bamboo, excluding the 30 strokes of the light bamboo which will be inflicted for the correct accusation, [the false accuser] may redeem the remaining 20 strokes of the light bamboo for the [offence] regarding which he made a false accusation in the amount of 1 fen, 5 li [0.015 taels of silver]. Or, if one person makes an accusation against another, and one [offence] entailing a penalty of 100 strokes of the heavy bamboo is false, and one [offence] entailing a penalty of 60 is true, then as to this 100 strokes, apart from inflicting the penalty*)

of 60 strokes of the heavy bamboo for the [offence] that is true, he may redeem the false accusation of 40 strokes for 3 fen [0.03 taels of silver]. Or, if someone accuses another of one [offence] punishable with 100 strokes of the heavy bamboo and penal servitude of three years, and this is false, and [an offence] punishable with 80 strokes of the heavy bamboo and this is true, then apart from inflicting the punishment of 80 strokes of the heavy bamboo, as to the surplus penalty of 20 strokes and penal servitude of three years resulting from the false accusation, penal servitude of the fifth degree converts into 100 strokes of the heavy bamboo. The [total] is thus 120 strokes of the heavy bamboo. Sentence the accuser to 100 strokes of the heavy bamboo. The surplus penalty is 20 strokes. This may be redeemed by paying 1 fen, 5 li [0.015 tael of silver]. Again, if one person accuses another of [an offence] involving 100 strokes of the heavy bamboo and exile to 3000 li, and in the interrogation he admits to an offence entailing only 100 strokes of the heavy bamboo, the three degrees of exile will each be converted to four years of penal servitude. Calculate this as 240 strokes of the heavy bamboo. Then for the surplus beyond 100 for which [the one accused] was properly sentenced, sentence the accuser to 100 strokes of the heavy bamboo, and for the remaining 40 strokes, the redemption price is 3 fen [0.03 tael of silver]. If there has already been a decision and execution, then punish on the basis of the entire penalty for the surplus. This is not redeemable.) As for the death penalty, if the falsely accused person is already executed, sentence the false accuser to death. If the sentence has not been executed, merely give 100 strokes of the heavy bamboo and exile to 3000 li. (Do not add servitude.)

6. If the law provides a limit to the punishment, then although there is a false accusation of more, do not punish. (This means, for example, someone accuses another of having illegally obtained property in the amount of 200 taels of silver and not having caused perversion of the law [Art. 344]. It is true that he has obtained 130 taels of silver, but the accusation as to the remaining 70 is false. According to the law, the penalty for illegally receiving consideration of 120 taels or above and not causing perversion of the law is strangulation with delay. Therefore there is no penalty [for the false accusation since it did not change the penalty] which the one falsely accused received.)

7. If someone accuses two or more persons, but as to one the accusation is untrue, then although the offence is minor, still sentence on the basis of false accusation. (This means that if there is someone who accuses three persons, and as to two of them the accusation that they are guilty of an offence entailing penal servitude is correct, but the accusation of an

offence entailing strokes of the light bamboo as to the other accused is not true, sentence the [false] accuser on the basis of the offence entailing the punishment with the light bamboo increased two degrees.)

8. If officials of various yamen present a sealed report to the Throne that falsely accuses someone, or if the Guardians of the Customs and Laws [censors], pursuing their private interest, make a report to the Emperor that is not true, the penalty is the same (as that of one who accuses another of an offence entailing the light bamboo, heavy bamboo, penal servitude, exile, or death. If the entire accusation is false, sentence [for false accusation].) If the penalty for the false accusation (in which it is falsely stated that a less serious matter is a more serious matter), or the increased penalty when the whole [accusation] is false is minor ([i.e.] if it does not reach 100 strokes of the heavy bamboo and three years of penal servitude), sentence according to the law of making false reports to the Emperor [Art. 357]. (Sentence to 100 strokes of the heavy bamboo and three years of penal servitude.)

9. If a prisoner has already confessed to his offence and there is no oppression or error, but the relatives of the detained person bring a false action [to appeal the conviction], their penalty will be that [of the condemned person] reduced three degrees. It is limited to 100 strokes of the heavy bamboo. If the condemned person has already (confessed and the sentence of strokes with the light or heavy bamboo) has been executed, or (in the case of penal servitude or exile, he has already) begun to perform labour, or has already gone to the place of exile, and he himself falsely makes an accusation of oppression or error, passing on gossip picked up about the behaviour of the official who presided at the original proceeding ([e.g. an accusation that he was] mistaken [in other matters] and makes a complaint against him), add three degrees to the penalty for the offence that is falsely alleged. The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li. (If he is already performing penal servitude when he makes the complaint, it is proper to apply the law of having been condemned to penal servitude and then again committing an offence entailing penal servitude [Art. 21].)

## CHAPTER I 6

## Procedure: 2

Article 337. *Offending against One's Status [Obligations] and Violating Duty.*

1. Every child or son's child who brings an accusation against his paternal grandparents or parents, or a wife or concubine who brings an accusation against her husband or her husband's paternal grandparents or parents (*even if it is true*) will receive 100 strokes of the heavy bamboo and penal servitude of three years. (*The paternal grandparents, etc., themselves will avoid punishment just as if they had confessed* [Art. 25].) But if it is a false accusation (*it need not be entirely false, but if one part is false, then*) [the accuser] will be strangled. One who brings accusations against superior or elder relatives of the second degree, or against a maternal grandfather or grandmother (*or if a concubine brings accusations against a wife*), even if [the accusations] are true, will receive 100 strokes of the heavy bamboo. (*One who brings accusations against*) relatives of the third degree will (*even if they are true*) receive 90 strokes of the heavy bamboo. (*One who brings an accusation against*) relatives in the fourth degree (*even if the accusations are true*) will receive 80 strokes of the heavy bamboo. (*One who brings accusations against*) relatives in the fifth degree will (*even if the accusations are true*) receive 70 strokes of the heavy bamboo. The relatives of the second or third degree, who are senior or elder, as well as maternal grandparents, the wife's parents, (*or the husband's principal wife*), who are accused will, moreover, avoid punishment just as if they had confessed [Art. 25]. Fourth degree and fifth degree relatives who are superior or elder will have their punishment reduced three degrees. If the penalty for false accusations is more serious (*than the offence of violating [duty] punished by this article*), then add three degrees to the penalty for the offence of false accusation [Art. 336]. (*This means merely that three degrees are added to the penalty for an ordinary person making false accusations so that [the penalty] will not be too light. The augmented penalty does not extend to strangulation. If [the penalty for making a false*

accusation] is penal servitude or exile, whether it has already been executed or not, compensation for the expenses [of the journey], redemption of property, the partition of his own property, or additional servitude will be adjudged for the false accuser just as in the law of false accusations [Art. 336]. If the one accused falsely is a superior or elder relative but not one for whom mourning is worn, the penalty is reduced one degree as in the law of Names and General Rules [Art. 32].)

2. If the accusation (*against the persons who are superior or elder*) is of plotting rebellion, high treason [Art. 254], treason [Art. 255], hiding illegally obtained property [Art. 278], spying [Art. 224], or is against the official mother in the direct line, the stepmother, the caring mother, or the natural mother for killing [the accuser's] father, or is against the adoptive parents for killing [the accuser's] natural parents, or if the accusations against the superior or elder relatives of the second degree and below are for wrongful taking of [the accuser's] property, or for striking and injuring his person [Art. 318], (*then if the accusation is true*) he may of course make the accusation. This permission (*for the inferior or younger relatives*) to bring an accusation is not within the provisions of this law of violating status obligations and duties. (*As to the matter which is the subject of the accusation, it will be decided according to its own law. It is not an offence against status obligations and duty. It is treated the same as if it were a case under the law of confessing and avoiding punishment* [Art. 25]. *The inferior relatives, when they are accused, are in the same case. Moreover, when there is an accusation of fornication, violation of frontiers, or injury to persons or things which cannot be compensated for* [Art. 25], *the case is also the same.*)

3. If an inferior or younger relative of the second or third degree or a son-in-law is accused of a matter that is true, it is the same as if he had confessed [Art. 31], and he avoids the penalty for the offence. For relatives of the fourth or fifth degree, reduce the penalty three degrees. If it is a false accusation, then for relatives of the second degree, reduce the penalty for the offence they were falsely accused of three degrees. For relatives of the third degree, reduce it two degrees. For relatives of the fourth or fifth degree, reduce it one degree. If (*the husband*) falsely accuses the wife or the wife falsely accuses the concubine, also reduce the penalty for the offence she was falsely accused of three degrees. (*For falsely accused children and son's children, wives and concubines, daughter's children, and relatives outside of mourning, use the law of Names and General Rules* [Arts. 32, 38]. *If someone falsely accuses an inferior or younger [relative] of a capital offence, and the penalty has not yet been executed,*

still reduce in degree according to the law. Do not [use the law of] falsely accusing someone [who is guilty of a] serious [offence] of a more serious [offence] [Art. 336].)

4. If a slave accuses the head of the household or relatives of the head of the household of the fifth degree or above, then the penalty is the same as for children or son's children or relatives who are of inferior rank. If a hired servant accuses his household head, or the relatives of the second degree of the household head, reduce the penalty for the slave one degree. If it is a false accusation, do not reduce. (Moreover, if a slave or hired servant is accused correctly, he may not avoid the penalty because, according to the Names and General Rules [Art. 32], he is not among those whose offences may be hidden [by the household head].)

5. If a paternal grandparent, parent, or maternal grandparent falsely accuses a child, son's child, daughter's child, or the wife or concubine of a son or son's son, or if a [husband falsely accuses] his own concubine, or his slave, or hired servant, there is no penalty. (The text does not speak of the wife's parents falsely accusing the son-in-law because this case is within the rule for relatives of the fifth degree.)

6. If there are circumstances that extinguish the duty of the son-in-law has towards his wife's parents, they may mutually accuse each other. Each will be treated as an ordinary person. (When [the law] says 'extinguish his duty', it means if he is in a distant place and the wife's parents marry her to someone else, or if they drive [the son-in-law] out and call in another [son-in-law], or if they permit a stranger to commit adultery with her, or if the son-in-law strikes the wife and injures her to the extent of fracture or forces her to commit adultery, or, although he is married, he deceitfully declares he is not, and fraudulently marries another [woman], making a concubine of [his] wife, or, if he accepts consideration to sell the wife or concubine by dian or hire her out, or marries her to another passing her off as a sister or relative, and the like.)

#### Article 338. Children or Son's Children Violating Orders.

In every case where a child or son's child violates the orders of his paternal grandparents or parents, or where there is a deficiency in supply and nourishment [of paternal grandparents and parents], he will be sentenced to 100 strokes of the heavy bamboo. (This means an order that can be obeyed and is intentionally violated. [As to the second proviso it refers to the case] when the resources of the family are adequate and there is an

intentional failure to supply. The paternal grandparents or parents must make an accusation themselves. Then there can be punishment.)

#### Article 339. Persons who are Incarcerated may not Bring an Accusation Regarding another Matter.

1. No one who is incarcerated may bring an accusation on account of (another person's) affair. In cases where the jail warden or jailers without reason act in a violent and cruel manner, [the prisoner] is permitted to accuse [them]. If one who is incarcerated, during interrogation, confesses to other offences (which he has committed) in which others are involved, he is permitted to confess, and [the others] will be interrogated and sentenced according to law.

2. If a person is over 80, or under 10, or suffering from a critical disability, or is a married woman, that person may make an accusation in such matters as plotting rebellion, treason, or high treason, or a child or son's child being unfilial, or in the situation in which he himself, or those living with him, have had property taken by theft or fraud, or where property has been seized and taken away, or there has been killing and injuring. In other cases, he may not file a complaint. (Since [such persons] can redeem offences, it is to be feared that they will accuse falsely in order to injure others). If the official responsible takes jurisdiction of the complaint and tries it, the penalty is 50 strokes of the light bamboo. (The original complaint will not be acted on.)

#### Article 340. Instigating Actions.

Anyone who instigates an action or prepares a written complaint for another that increases or decreases the circumstances and nature of an offence in accusing another falsely will receive the same penalty as the offender [the false accuser]. (If the penalty extends to death, reduce one degree.) If he accepts employment to accuse another falsely, he will be punished the same as one who himself accuses falsely [Art. 336]. (If [the penalty] extends to death, do not reduce in degree.) If he receives consideration, calculate the amount of the illegally obtained property and sentence to the heavier penalty [as between this penalty and that for receiving consideration and perverting the law [Art. 344]. If one is acquainted with another who is unlearned and cannot redress his wrongs and he gives him advice

in accordance with the facts, or he writes the complaint for the other and the offence is not increased or decreased, there is no punishment. (*If an adulterous lover counsels the adulterous wife to accuse her child falsely of being unfilial, he will be judged according to the law of one who formulates a plot to kill another* [Art. 282].)

**Article 341. *Arranging the Trial of Cases involving Military Personnel and Civilians.***

1. Whenever a military person has killed someone, the military yamen having jurisdiction will make arrangements with the competent civilian authority to have it investigated and to have the medico-legal investigations proceed and to have the matter tried. If it is fornication, theft, fraud, household, marriage, or land matters, affrays or blows, and it involves civilians, then it must be tried by both authorities together. If it does not involve civilians, then [the offender's] competent superior officer will proceed to take care of the matter. If there is usurpation of functions and one party is not advised, the chief officer and clerk will each (*on the basis of violating an order* [Art. 385]) receive 50 strokes of the light bamboo.

2. If a military commander exceeds his authority and without authority receives a civilian accusation, the penalty is the same.

**Article 342. *In the Cases of Government Officials and Clerks, Persons in their Family Make the Accusations.***

Every government official or clerk who has a dispute in regard to marriage, money obligations, real property, and the like, is permitted to commission a person in his household to bring the action before the official and to appear. He is not permitted to exchange official documents on this subject. Any violation will be punished with 40 strokes of the light bamboo.

**Article 343. *False Accusations [of Offences] Involving Military Exile and Transportation.***

1. In every case of a false accusation [of an offence] involving military exile, according to whether the place to which the one falsely accused

would be sent is near or far, punish with service in military exile in a proportionate amount.

2. If an official or clerk intentionally or mistakenly decreases or increases the sentence of someone for an offence entailing a punishment of military exile, punish on the basis of intentionally or mistakenly decreasing or increasing a sentence of exile [Art. 409].

3. If someone falsely accuses another of an offence which involves transportation, on the basis of the rule that exile reduced in half is regarded as penal servitude of two years [Art. 336?], add three degrees to the penalty [for the offence] falsely accused of. Moreover, add to this sentence the appropriate number of strokes of the heavy bamboo. (*In all cases of penal servitude of two years, there must be 80 strokes of the heavy bamboo. Now three degrees are added as the penalty for false accusation. [That is] the penalty of exile to 2000 li and 100 strokes of the heavy bamboo must be applied. Sentence to both together, and execute the sentence.*)

## CHAPTER I 7

*Receiving Illegally Obtained Property***Article 344.** *When an Official or Clerk Receives Consideration.*

1. In every case of an official or clerk (*whether or not there is perversion of the law*) who receives consideration, calculate the amount of illegally obtained property and decide the penalty and sentence accordingly. Persons who are not on the government payroll will have their penalties reduced one degree. The officials or clerks will lose their commissions; clerks their employment (*even if the illegally obtained property is only 1 tael*). Both are refused permission to re-enter the service.

2. If someone has acted as intermediary and delivered the money, he will, if he is a person on the government payroll, receive the penalty of one who receives money, reduced one degree. If he is not on the government payroll, reduce the penalty two degrees. (*If it is a matter of property obtained illegally by solicitation [Arts. 349, 350], collection [of taxes, Art. 352], intimidation and fraud [Arts. 273, 274], or accepting consideration after the matter is concluded [Art. 346], do not use this law.*) Punishment is limited to 100 strokes of the heavy bamboo and penal servitude of two years. (*The sentence is set according to the rule of transportation being reduced to half [the penalty] of exile [i.e. to penal servitude. See Art. 343.3, comment].*) If there is a case of illegally obtained property (*someone transmits money [for example, an intermediary] and he also receives money*), calculate the amount of illegally obtained property and sentence in the heavier degree. (*If the penalty for illegally obtained property is greater, sentence according to the basic law.*)

In the case of a person on the government payroll (*who receives monthly 1 dan [120 jin, approx. 133 lb.] or more [of rice]*) who is guilty of receiving consideration from different persons and perverting the law, calculate the entire amount of the illegally obtained property and sentence accordingly. (*That means if he accepts consideration from persons with matters [that come before him], litigants, and twists the law to decide the matters, if he receives [consideration] from one person, he will be punished according to the whole amount [received]. If he receives [consideration] from ten persons and the matters [in which they are concerned] are discovered*

*at one time, calculate the [entire] amount [received] together to constitute [the basis for a] single punishment. If two or more matters are discovered, and one is discovered first, and it has already been tried and the sentence executed, then if others are discovered later, although they are less serious or of the same degree, the [total punishment must be based on] calculating the [entire amount from all the cases] together.*)

[The punishments are:]

Less than 1 tael, 70 strokes of the heavy bamboo.

1 to 5 taels, 80 strokes of the heavy bamboo.

10 taels, 90 strokes of the heavy bamboo.

15 taels, 100 strokes of the heavy bamboo.

20 taels, 60 strokes of the heavy bamboo and penal servitude of one year.

25 taels, 70 strokes of the heavy bamboo and penal servitude of one and a half years.

30 taels, 80 strokes of the heavy bamboo and penal servitude of two years.

35 taels, 90 strokes of the heavy bamboo and penal servitude of two and a half years.

40 taels, 100 strokes of the heavy bamboo and penal servitude of three years.

45 taels, 100 strokes of the heavy bamboo and exile to 2000 *li*.

50 taels, 100 strokes of the heavy bamboo and exile to 2500 *li*.

55 taels, 100 strokes of the heavy bamboo and exile to 3000 *li*.

80 taels (*the actual offence [as opposed to a miscellaneous offence], strangulation [with delay]*).

In every case in which there is receipt of consideration from several persons and there is no perversion of the law, the punishment is decided by calculating the whole amount and reducing it by half. (*Even though he has received consideration from a person involved in a case, the decision in the case does not twist the law. If [the offender] receives consideration from ten persons, and the matters are all discovered at once, add together the consideration received [from all of them] and award the penalty for half that amount. [If the entire consideration comes from] one person, the penalty is also determined on the basis of half the entire amount. Whenever there is a provision for awarding half the penalty, [the cases] will all be decided by reference to this provision.*)

[The penalties are:]

Less than 1 tael, 60 strokes of the heavy bamboo.

1 to 10 taels, 70 strokes of the heavy bamboo.

20 taels, 80 strokes of the heavy bamboo.  
30 taels, 90 strokes of the heavy bamboo.  
40 taels, 100 strokes of the heavy bamboo.  
50 taels, 60 strokes of the heavy bamboo and penal servitude of one year.

60 taels, 70 strokes of the heavy bamboo and penal servitude of one and a half years.

70 taels, 80 strokes of the heavy bamboo and penal servitude of two years.

80 taels, 90 strokes of the heavy bamboo and penal servitude of two and a half years.

90 taels, 100 strokes of the heavy bamboo and penal servitude of three years.

100 taels, 100 strokes of the heavy bamboo and exile to 2000 *li*.

110 taels, 100 strokes of the heavy bamboo and exile to 2500 *li*.

120 taels, 100 strokes of the heavy bamboo and exile to 3000 *li*.

Over 120 taels (*the actual offence* [as opposed to a miscellaneous offence]), strangulation (*with delay*).

In the case of a person who is not on the government payroll (*his monthly salary is less than 1 dan*) who is guilty of [receiving consideration and] perverting the law, (*if by agreement he lets someone act* [improperly] *or he intentionally decreases* [the punishment], *then for 120 taels the penalty is strangulation (with delay)*).

[In such cases] there is [receipt of consideration and] no perversion of the law, for 120 taels and above, the punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 *li*.

#### Article 345. Affixing a Penalty for Illegally Obtained Property.

(*The JiJie* [a Qing Commentary] says: 'Punishing because of illegally obtained property does not mean that [the offender] actually received property. It means the [amount of the] illegally obtained property is used to set the penalty.')

In the case of every official or clerk who receives consideration (*from another*) and it is not because of a matter (*that perverts the law or does not pervert the law*), the penalty is determined by [the amount of] the illegally obtained property. If it is from several owners, compute it as a whole, and then divide it in half to affix the penalty. The one who offers

[the property to the official] will have his punishment reduced five degrees. (*This refers, for example, to the case of someone who has been robbed or beaten and injured who, apart from [receiving] compensation for the monetary loss and medical expenses [to which he is entitled], receives additional amounts [to which he is not]. If it is from several owners, then compute the whole, take half, and affix the penalty. In this case, the two parties agree to give and to receive. The one who makes the payment receives a penalty reduced five degrees from that of the one who receives it. Or if someone collects property without authority [for example, taxes, Art. 352] or [a tax collector] receives too much or collects too little, as when measuring the receipts of taxes in money or supplies [Art. 120], or, in the investigation in situ of the losses occasioned by natural disasters [he reduces taxes improperly] [Art. 91], or if he constructs his own hu and dou [grain measures] or the scale or foot-measures that are provided for by law [and in consequence receives too much or too little], even though he does not [personally] receive anything; or if there is padding of expenditures of labour or materials, etc. [Art. 425], all the penalties that are based on this illegally obtained property are said to be punishments that are imposed on the basis of [the receipt of] illegally obtained property [this article]. If a government official or clerk is adjudged guilty of receiving illegally obtained property but if he does not appropriate it for his own use, he should be restored to office or employment. If the one who gave the money did so with a view to avoid a more serious offence, then he will be sentenced for the more serious offence.*)

[The penalties are as follows:]

1 tael or below, 20 strokes of the light bamboo.

1 to 10 taels, 30 strokes of the light bamboo.

(*The JiJie* says: 'from now on for each [additional] 10 taels, add one degree').

20 taels, 40 strokes of the light bamboo.

30 taels, 50 strokes of the light bamboo.

40 taels, 60 strokes of the heavy bamboo.

50 taels, 70 strokes of the heavy bamboo.

60 taels, 80 strokes of the heavy bamboo.

70 taels, 90 strokes of the heavy bamboo.

80 taels, 100 strokes of the heavy bamboo.

(*The JiJie* says: 'From 80 taels to 99.9 taels, the punishment is only 100 strokes of the heavy bamboo. Only when [the amount] reaches 100 taels is [the offence] punished with penal servitude.')

100 taels, 60 strokes of the heavy bamboo and penal servitude of one year.

200 taels, 70 strokes of the heavy bamboo and penal servitude of one and a half years.

(The JiJie says: 'From this point on for each 100 taels, add one degree. The punishment is limited to the highest degree of penal servitude.')  
300 taels, 80 strokes of the heavy bamboo and penal servitude of two years.

400 taels, 90 strokes of the heavy bamboo and penal servitude of two and a half years.

500 taels is the maximum [amount for fixing] punishment. [The penalty is] 100 strokes of the heavy bamboo and penal servitude of three years.

(That is because [the offender] is punished on the basis of illegally obtained property, but he did not actually obtain property illegally. Therefore, the punishment is limited to 500 taels and three years of penal servitude.)

**Article 346. Receipt of Consideration After [Decision of the] Matter [Case].**

(This [matter] arises after [the original] case. Therefore it is not within the law of accepting consideration [Art. 344]).

In every case where an (official or clerk has accepted and acted in a) matter, when there was no promise to give consideration prior to his action in the matter, who, after the matter is completed, receives consideration will, if the matter was decided so as to pervert the law, be sentenced as if it were [a case of receiving consideration] and perverting the law [Art. 344]. If it is not wrongly decided so as to pervert the law, then he will be sentenced as if it were [receiving consideration] and not perverting the law [ibid.]. (Those who are not on the official payroll will receive the penalty of those who are on the payroll, reduced one degree. If they are Guardians of the Customs and Law [censors], then add two degrees. If the penalty for the [provision whose meaning was perverted] is more serious, then sentence to the more serious penalty. Officials or clerks will return to the ranks of the people according to the rule, but they will not be forced to return their commissions. The law does not refer to the punishment of those who have paid money or transmitted money. The law of doing that which ought not to be done [Art. 386] in the heavier degree may be applied to them.)

**Article 347. Officials or Clerks Who Permit the Making of Promises [to make Gifts of Goods, etc.].**

(This is the case where [officials or clerks] have not received consideration [after deciding a matter]. Therefore it is not within the Law of Receiving Consideration After Deciding a Matter [Art. 346].)

Every official or clerk who permits promises of [the giving of] property to be made even though he does not receive it, if there is a perversion [of the law] in the matter, then sentence as if it were [receiving consideration and] perverting the law [Art. 344]. If there is no perversion [of the law] in the matter, sentence as if it were [receiving consideration and] not perverting the law [ibid.]. In each case, reduce the penalty from that (of receiving consideration) one degree. If the penalty for the matter as to which the law was perverted is heavier, then sentence according to the [provision with the] heavier penalty. (It is necessary that the evidence be clear and that there be a fixed amount. Then there can be punishment. Whenever the law says 'as if it were [the law]', then if [the penalty] is death, reduce [the punishment] one degree. Even though [the amount promised] meets the required amount [for the death penalty], the punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li. This provision says to sentence as if it were [the law of receiving consideration and] perverting the law. On top of that, it says 'reduce one degree'. If, for example, one permits a promise to be made of an amount which, if this were a case of [receiving consideration] and perverting the law would result in the death penalty, then reduce [the penalty] one degree to 100 strokes of the heavy bamboo and exile to 3000 li. Then reduce one degree more to 100 strokes of the heavy bamboo and penal servitude of three years. Then it is in accordance with the law. This is what is meant by cumulating reductions of the penalty. [The law] clearly says officials and clerks. As for others, even if they are employees of the government, do not use this law.)

**Article 348. Those Who Have Some Matter and Seek Help [in Connection with It] by Offering Consideration.**

In the case of anyone who has a matter and seeks [help] (from officials and clerks [who are acting in the matter] by means of [offering] consideration to cause perversion of the law, calculate the value of the consideration that was offered and sentence for illegally obtained property [Art. 345]. If there was an effort to avoid something difficult and seek something which is

easy, then, if (the penalty) for perverting (the law) is heavier (than [the penalty] for offering consideration [above]), sentence according to the more serious penalty [i.e. Art. 344]. (The illegally obtained property is forfeit to the government.) If an official manipulatively causes matters to arise, or uses force to cause matters to arise, or uses compulsion to obtain consideration, the donor is not punished. ('Avoiding something that is difficult in order to seek something which is easy' means to avoid a heavy penalty that is difficult to bear and to seek a light penalty that is easy to receive. In other laws 'avoiding difficulties' refers to the difficulty of delivering [taxes] in money or supplies, or to the difficulty of seizing thieves.)

**Article 349. One With the Status of an Official who Solicits or Borrows the Property of Others.**

1. In every case of an official or clerk in a supervisory position who uses pressure, or [in the case of] a powerful person who solicits or borrow[s] property [of persons] within his area, calculate the amount (solicited or borrowed) and sentence as if it were [receiving consideration] and not causing perversion of the law [Art. 344]. If he uses force, penalize as if it were [receiving consideration and] causing perversion of the law [Art. 344]. The property is given to the owner. (If it is someone not on the government payroll, then reduce the penalty one degree from that of someone on the payroll.)

2. If [an official] sells his own goods to some person in his own area, or buys at a reduced price to make a large profit, then calculate the excess profit and sentence as if it were [receiving consideration] and not causing perversion in the law [Art. 344]. If he uses force, sentence as if it were [receiving consideration] and causing perversion of the law [Art. 344]. The goods or their price will be taken by the government and given to the owner. (If he sells the goods, then they are forfeit to the government and the price originally received is given to the owner. If he buys, then the goods are given to the owner and the price goes to the government. The following four provisions refer generally to the categories of officials and clerks who are in a supervisory position. Persons of influence and power are also included therein.)

3. If, within his area, [such a person] buys an object and does not immediately pay the price, or borrows clothing or articles and lets a month pass without returning them, then sentence for illegally obtained property [Art. 345]. (Moreover, the object will be returned to the owner.)

4. If [such a person] borrows, for private use, from within his area horses, cattle, camels, mules, asses, carts or boats, mills, shops or inns, or the like, then, in each case, calculate the rent and sentence for illegally obtained property [Art. 345]. The money is given to the owner. (Calculate the rent [according to the value] at the time of the illegal act. Even if the result of the calculation [results in a figure that] is more [than the value of the property, the amount used in determining the penalty] cannot exceed that value.) If he receives in his area gifts of special products of the country, the recipient will receive 40 strokes of the light bamboo. Reduce the penalty for the donor one degree. If [an official] receives things because of some matter ([that arose] while he was in service), calculate the amount of the illegally obtained property and sentence on the basis of [receiving consideration] and not perverting the law [Art. 344]. Presents of food and drink offered in places they are passing through, as well as presents from relatives or old [friends]), are not within this rule.

5. If someone is sent on a mission and in the place to which he is sent he solicits or borrows things, or he buys or sells and receives an excessive profit, or receives gifts, then his punishment is the same as for supervisory officials and clerks.

6. One who has left the service and receives things from his old area, or solicits or borrows things, will receive a punishment reduced three degrees from that of someone in government service.

**Article 350. Members of the Household [of Officials] Who Solicit [Property].**

Any member of the households of officials or clerks in supervisory positions (elder or younger brothers, children and the children of brothers or slaves are all included in this definition) who, within the area [of the official], obtains property (which he has) solicited or borrowed ([will be sentenced] according to the law of [receiving consideration and] not perverting the law [Art. 344]). Or, if [one of these persons] employs and commissions persons from [the official's] area, or he engages in buying or selling and obtains too much profit, then each will receive the penalty for the official (or clerk) reduced two degrees. (Distinguish between those who are on the government payroll and those who are not. It is necessary to ascertain definitely that they are soliciting or borrowing before they can have the punishment reduced according to the law. If they receive consideration because of some matter, then fix the penalty according to the law

for an official who receives consideration [Art. 344]. The matter is not handled according to the rule for reduction.) If the official (or clerk) knows the circumstances, he will receive the same penalty. If he does not know, he is not punished.

**Article 351. Guardians of Customs and Laws [Censors] and their Clerks Who Obtain Property Illegally.**

Every Guardian of Customs and Laws [censor] or his clerk who receives consideration, or in a place under his supervision solicits or borrows the property of others, or engages in buying or selling and receives an excess profit, or receives gifts, will, in all cases, have two degrees added to the penalties of the other officials and clerks (for receiving consideration on the basis of the rules listed below. The penalty must not be increased to death. If the illegally obtained property that causes perversion of the law reaches 80 taels, the punishment is strangulation. If there is illegal obtaining of property and no perversion of the law, it must reach 120 taels and only then can [the offender] be strangled. If the clerks [attached to the] Guardians of the Customs and Law are not on the payroll, then award the sentence for illegally obtaining property and perverting the law or not perverting the law for one who is not on the payroll [Art. 344]. As for members of their households, if they in fact solicit or borrow, then it is permitted to punish them with a punishment reduced two degrees from the increased penalty for the [surveillance] official himself. If [the household member] receives consideration because of some matter, it is not permitted to reduce the penalty. If the official himself knows the circumstances, he receives the same penalty. If he does not know, he is not punished.)

**Article 352. Making Collections for a Public Purpose.**

(The Ming Code Table of Contents has the word 'without authorization' after 'Public Purpose'.)

1. Every official, clerk, or person in an office having jurisdiction over an area, who, not having received a written order from his superior authority, because of a public matter, without authorization, makes collections of property within his area, as well as a military commander who makes

collections from the salaries, provisions, and special rewards of the soldiers (even though he does not take it for himself) will receive 60 strokes of the heavy bamboo. If the penalty for the amount taken [considered as illegally obtained property under Art. 345 results in a penalty] that is heavier, punish for illegally obtained property. If he takes it for himself, moreover, calculate the amount of the illegally obtained property and punish for [receiving consideration and] perverting the law [Art. 344]. (If it is someone who is not on the government payroll, reduce the punishment for someone on the government payroll one degree. [When the amount taken] reaches 120 taels, the punishment is strangulation with delay.)

2. If someone makes a collection of property, not because of a public matter, but to take it for his own [use], calculate the amount of the illegally obtained property and punish on the basis of [receiving consideration and] not perverting the law. (If it is one who is not on the government payroll, the punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li.) If it [the purpose of the action] is to offer a present to another, even though [the offender] does not receive it himself, the punishment will be the same.

**Article 353. Failing to Deliver Stolen Property.**

Every official who is responsible for arresting thieves, who has seized the product of a theft, and who keeps it and does not deliver it to the government, will receive 40 strokes of the light bamboo. If he takes it for himself, calculate the amount of the illegally obtained property and sentence on the basis of [receiving consideration and] not perverting the law [Art. 344]. Moreover, [when he has kept part and delivered part] take the amount of the illegally obtained property (that was kept), and compute its value (together with that [of the property] which was delivered to the government) and sentence [the original offender] for theft [Art. 269] [for the entire amount, both that which was delivered to the government and that which was held back]. If the one who commits this offence is a military person or an archer, calculate the amount of the illegally obtained property, and although it is a great deal, limit the penalty to 80 strokes of the heavy bamboo. (Still compute the value of all the illegally obtained property together in sentencing for the theft.)

Article 354. *Privately Receiving Objects of Value from Gong or Hou.*

No military official inside or outside the capital may privately or openly receive from *gong*, *hou*, or *bo* gifts of gold or silver, silk or clothing, provisions, money, or other objects. If he does receive them, the penalty is 100 strokes of the heavy bamboo, removal from the service and exile to the distant frontier to do military service. If he does it again, he is condemned to death. The *gong* and *hou* who are the donors are not punished for the first and second offences. For the third offence, petition to have the matter handled. If they have received an order to go the front, neither the donor nor the recipient is within this law. (*The law has no clear provision [whether 'death' is to be by] strangulation or beheading. But the first offence is to be punished with military exile. This is the punishment of exile. The additional offence increases the penalty to strangulation with delay. Since this is a matter of a gong, hou or bo, it is necessary to request a decision from the Emperor.*)

CHAPTER I 8  
*Forgeries and Counterfeiting*

Article 355. *Counterfeiting an Imperial Written Order.*

(*In the case of counterfeiting, those who commit the act [of counterfeiting orders] are punished as principal and accessories. Those who make copies [of the counterfeit order] and transmit them are not [counterfeiters].*)

1. Everyone who counterfeits an imperial written order (*when this order does not exist*), or adds to or takes away from (*the original provisions of one that did exist*) will (*if [the counterfeiting] has already taken place, do not distinguish between principal and accessory*) all be beheaded (*with delay*). If [the counterfeiting] has not been accomplished, (*the punishment for the principal is*) strangulation (*with delay. For the accessories, reduce the punishment one degree.*) One who, in copying [an order] for transmission, mistakenly commits errors [in the copying] will be punished (*if he is the principal*) with 100 strokes of the heavy bamboo. (*The accessories receive a punishment reduced one degree.*)

2. One who counterfeits written orders of the Six Boards, the Censorate, generals, governors-general, provincial commanders, or military guardians of important passes, or who copies characters [from an official document on to another document], or steals a seal and uses it, or takes blank paper and puts a seal on it (*there must be a theft and use of the seal and only then can he be punished*) will be strangled (*with delay. Do not distinguish between principal and accessory. If [the document] has not been used, the punishment of the principal is reduced one degree, and that of the accessory is reduced still another degree.*)

3. (*If someone counterfeits a sealed document*) of the Investigation Bureau, the Provincial Administration Commission, the Surveillance Commission, or the yamen of a prefecture, department, or district, then (*the principal*) receives 100 strokes of the heavy bamboo and exile to 3000 li. (*If someone counterfeits the sealed document*) of any other yamen, then (*the principal*) receives 100 strokes of the heavy bamboo and penal servitude of three years. (*If he acts as an accessory, reduce one degree*). If [the document] has not been used, each (*distinguish between principal and accessory*) will have his punishment reduced one degree. If the act [of

counterfeiting] has been committed to escape the consequences of a misdeed, [the penalty for which] is more serious (*than the penalty for the above matter*), sentence according to the [provision with the] more serious penalty. (*For example, in a case where someone counterfeits [an order] to be absolved from homicide in order to escape from paying [for the killing with his life], then it is correct to follow the law for the act [of homicide] and award the [prescribed] penalty.*)

4. If the appropriate supervisory official (*of the place in which the counterfeit imperial sealed written order or other government document has already been put into effect, or where the [counterfeit] imperial sealed written order [or other government] document has arrived*), knows [the facts] and allows it to take effect, he will receive the same penalty. (*If it is death, reduce one degree.*) If he does not know, there is no penalty. (*Whenever someone takes a blank sealed paper and fabricates another person's written document and delivers it to a government office in order to harm another, he will be punished according to the law of those who write anonymous letters to injure others [Art. 333]. If he steals and uses a guan fang [an oblong seal issued by the Emperor, the punishment] is the same as for a seal. There are [other] sub-statutes [that govern these matters].*)

#### Article 356. Falsely Transmitting an [Oral] Expression of the Imperial Will.

(*As for false transmission, those who have initiated the transmission are sentenced as principals or accessories. Those who, [having received the false order], forward it, are not [included among them].*)

1. Everyone who falsely transmits an [oral] expression of the imperial will (*from the inside [of the palace] to the outside*) will (*if he is the principal*) be beheaded (*with delay. The accessories will receive 100 strokes of the heavy bamboo and exile to 3000 li. One who falsely transmits the Empress's order or that of the Heir Apparent will [if he is the principal] be punished with strangulation [with delay. The accessories will receive 100 strokes of the heavy bamboo and exile to 3000 li.]*)

2. If one falsely transmits the official spoken order regarding a public matter of first or second rank yamen officials to each of the subordinate yamen, (*and [the offender] himself*) is avoiding the effects of some rule, (*he will, if he is the principal, receive*) 100 strokes of the heavy bamboo and penal servitude of three years. If it is the official spoken order of a third or fourth rank yamen official (*and there is an effort to avoid the effects*

*of some rule, then that) person [will receive, if he is the principal], 100 strokes of the heavy bamboo. For the spoken order of yamen officials of the fifth rank and below, the punishment is 80 strokes of the heavy bamboo. For those who act as accessories, in each case reduce the penalty one degree. If he receives consideration [and the false transmission has not caused a violation of the law], calculate the amount of illegally obtained property and sentence on the basis [of receiving consideration] and not perverting the law [Art. 344]. If, because [of receiving consideration and falsely transmitting], there is some [change and] alteration of [the circumstances of a] case resulting in a [perversion] and twisting of the law [the legal order], sentence on the basis of [receiving consideration and] causing perversion of the law [Art. 344]. In each case [draft a sentence for receiving consideration and causing or not causing perversion of the law, and compare with the [penalty for violating the] law of falsely transmitting [an order] in order to avoid effects of some rule [above]], and sentence according to the heavier penalty.*

3. If (*at the place where falsely transmitted imperial orders or those of the said officials arrive*), the proper official having jurisdiction knows [of the offence] and allows [the false orders] to be acted upon, he will receive the same penalty [as the one transmitting them]. (*If this amounts to death, reduce one degree.*) If he does not know, he is not punished.

4. If (*inside or outside the capital*) any official who is seized of a public matter—collecting money or provisions or trying criminals—and the said official or clerk has received an order from the Emperor in response to a memorial on the proper handling of the matter (*to remit [the taxes] or not to carry on the interrogation*), and he falsely claims to have received an order to collect [taxes] or to conduct the interrogation (*this is also the offence of false transmission [above]*), he will be beheaded (*with delay*).

#### Article 357. Replying or Addressing a Petition to the Emperor in a Way That is Not in Accordance with the Facts.

1. One who, in replying to the Emperor (*and setting out some [information]*), or in memorializing and informing the Emperor of a fact (*he reports on an action as required by his official role, or*) addresses a petition to the Emperor (*which is not in regard to his own duties but sets forth some current matter*), and who falsely (*and deceitfully*) does not set out the truth, is punished with 100 strokes of the heavy bamboo and penal servitude of three years. (*If his reply, memorial, or petition to the Emperor*

is not secret (*this means it is not a matter of plotting rebellion, high treason, or the like*), but he falsely states that it is secret, add one degree.

2. Anyone who has received an imperial order to look into a matter or conduct an interrogation [trial], and who transmits an untruthful report to the Emperor, will receive 80 strokes of the heavy bamboo and penal servitude of two years. (*If he profits from violating the law and the matter that is reported untruthfully is*) a matter that entails a more serious penalty (*than 80 strokes of the heavy bamboo and penal servitude of two years*), then sentence on the basis of decreasing or increasing a punishment [erroneously] [Art. 409].

#### Article 358. Counterfeiting Seals, Almanacs, and the Like.

In any case where someone counterfeits a yamen seal, or an almanac, or delivery order (*for a boat or horse*) in the form of a tally, or a licence to [transport] tea or salt, (*the principal, the one who has done the carving*) will be beheaded (*with delay. The accessories will receive punishments reduced one degree to 100 strokes of the heavy bamboo and exile to 3000 li*). If someone accuses him and causes him to be seized, the government will give him a reward of 50 taels of silver. If someone counterfeits a *guan fang* [a special oblong seal] or *yinji* [another oblong seal usually smaller than the *guan fang*], (*the principal will receive*) 100 strokes of the heavy bamboo and penal servitude of three years. One who accuses him and causes him to be apprehended will receive a reward from the government of 30 taels of silver. Accessories or anyone who knows the circumstance and uses [the seal] will each [receive the same penalty] reduced one degree. (*The word 'each' refers to the above two types [of cases].*) If someone starts the counterfeiting but has not completed it, (*the principal and accessory*) will each receive [the same] penalty reduced one degree. If the official having jurisdiction knows the circumstances and permits [the activity] to go on, he will receive the same punishment. If he does not know, he will not be punished. (*What is important [in a seal] are the characters. If there are characters [carved on the seal], [the seal] even though it has not been cast in copper can still be used to defraud. Therefore if the form is like [the original] and the seal characters are complete, there is said to be a counterfeit. However, if it has the shape [of the seal] but the characters are not complete, then it is said to be made but not complete. If it is completely without form but just sketched on paper, then it is said only to be copied in a sketch.*)

#### Article 359. Privately Casting Copper Cash.

1. Anyone who privately casts copper cash will be strangled (*with delay*). The punishment of the artisans is the same. As for the accessories or those who, knowing the circumstances, buy and put them into circulation, each will [receive the same penalty] reduced one degree. If someone accuses [the counterfeiters] and causes them to be arrested, the government will reward him with 50 taels of silver. If the community head knows [of the counterfeiting] and does not report [it], he will receive 100 strokes of the heavy bamboo. If he does not know, he is not punished.

2. If someone takes copper cash that are in circulation and clips them or makes them thinner or smaller, taking the copper [that is clipped] in order to make a profit, he will receive 100 strokes of the heavy bamboo.

3. If (*by using copper, iron, or quicksilver*) someone counterfeits gold or silver, the punishment is 100 strokes of the heavy bamboo and penal servitude of three years. As for accessories or those who know the circumstances and buy and circulate [the counterfeit coins], each receives a punishment reduced one degree. (*If the percentage of pure gold or silver is insufficient, this is not counterfeiting. Do not use this law.*)

#### Article 360. Falsely Impersonating an Official.

1. Everyone who (*counterfeits an identification certificate in order*) fraudulently to claim [to be] an official, or gives (*a false identification document or the identification certificate of a deceased official*) to another, [enabling] him to impersonate an official, will be beheaded (*with delay*). One who knows the circumstances and receives this false official [identification] will receive 100 strokes of the heavy bamboo and exile to 3000 li. (*It is necessary that there be a [false] identification document that must be relied on in order for there to be punishment. But the identification documents were all constructed by the one who presented them. Therefore [the punishment of the one receiving the false identification] is reduced [from that awarded to the one presenting the document].*) If he does not know, there is no punishment.

2. If one who is not an official (*does not fabricate a false identification document, but*) falsely claims to be an official in order to obtain something he wants, or falsely claims to be sent by an official to make an arrest, or falsely claims the name of a (*presently serving*) official (*and [uses it] to do something he wants to do*), he will receive 100 strokes of the heavy

bamboo and penal servitude of three years. (*In the above three cases, the seriousness depends on what is sought.*) If someone falsely claims to be the child or son's child, younger brother, brother's son, household member, or foreman of a serving official, and within the territory over which [the official] has jurisdiction seeks to obtain something, he will be punished with 100 strokes of the heavy bamboo. For the accessories reduce<sup>8</sup> the punishment one degree. If he receives consideration, calculate the amount of illegally obtained property. (*If there are several owners, take the amount received from one owner as the most important* [i.e. consider only his property in computing the amount considered as stolen] *and sentence as if it were non-manifest theft* [for that amount] (*without tattooing*) [Art. 269]. Sentence for the heavier penalty [i.e. as between Arts. 269 and 360]. (*If the amount is small, then use the penalty for impersonating an official* [Art. 360 instead of Art. 269].)

3. If the officials concerned know [of the situation] and permit it to happen, they will receive the same penalty. If they do not know, there is no punishment.

**Article 361. Falsely Claiming to be One in Close Attendance on the Emperor [nei shi], an Imperial Secretary, or other Official.**

(*The Official Position and the function are both false.*)

1. Everyone who (*without any basis*) falsely claims to be one in close attendance on the Emperor (*jin chen*) or an official who is [a member] of the Grand Secretariat, or [attached] to the Six Offices of Scrutiny, the Six Boards, the Censor, etc., or the Investigating Censorate, or the Provincial Surveillance Commission, and who outside the Capital investigates matters, deceives the government offices, and arouses the people (*although he does not forge an identification document*) will be beheaded (*with delay*). One who, knowing the facts, goes along and acts with him, will be awarded that sentence reduced one degree (*100 strokes of the heavy bamboo and exile to 3000 li*). If the official who has jurisdiction knows the facts and permits this to happen, he will receive the same penalty. (*The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) If he does not know, there is no penalty.

2. One who (*without an authenticating tally*) falsely claims to be a

<sup>8</sup> 'Add' in the text, but this is a mistake according to other texts.

special envoy who rides post [and thus must be given a mount and supplies, etc.] will receive 100 strokes of the heavy bamboo and exile to 3000 *li*. As for accessories, reduce their penalty one degree. If the officer of the courier station knows [the circumstances] and receives him and provides his needs [for horses, etc.], he will receive the same penalty. If he does not know, and fails to make inquiry, he will receive 50 strokes of the light bamboo. If [the one who receives the mounts and supplies] has a tally and delivers it, there is no punishment [for the official of the courier station]. (*If the tally is false, use the law of counterfeiting tallies* [Art. 358]. *If it is stolen, use the law of stealing tallies* [Art. 258].)

**Article 362. Court Attendants who Falsely Claim to be Charged with a Private Mission.**

(*His official title is correct but the mission is false.*)

Every court attendant who outside the Capital falsely claims to be engaged in the secret investigation of a matter, [thereby] arousing the people, will be beheaded (*with delay*). *In the case of this false claim, it is a true official himself who is making the false claim. It is not a case of someone else* [making the claim for him].)

**Article 363. Fraudulently Inventing a Good Omen.**

1. Anyone who fraudulently invents a good omen will receive 60 strokes of the heavy bamboo and penal servitude of one year.

2. If there are disasters or auspicious signs and an official in the Directorate of Astronomy does not answer according to the facts, [he will receive the same penalty] increased two degrees.

**Article 364. Feigning Sickness, Death, or Injury to Avoid Tasks.**

1. Every official, clerk, or other person who feigns sickness temporarily to avoid some difficulty (*such as transporting money or supplies when it is difficult to do so, or capturing a thief when it is difficult to do so*) will receive 40 strokes of the light bamboo. If the matter (*which he seeks to avoid*) is serious, he will receive 80 strokes of the heavy bamboo.

2. If one who has committed an offence and is awaiting trial intentionally

injures or mutilates himself, he will receive 100 strokes of the heavy bamboo. If he feigns death, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. (*The injury or mutilation is to avoid torture and interrogation. The feigning of death is in order to avoid appearing before the magistrate.*) If the consequences [punishment] of the matter which he seeks to avoid are more serious (*than 100 strokes of the heavy bamboo and penal servitude of three years*), then sentence according to the law with the more serious punishment (*e.g. if it is the theft of money or supplies* [probably Art. 269] *and if* [the penalty for] *theft is heavier, sentence for that* [offence]). If he does not have [the intention] to avoid ([the consequences] *of the offence, but in order to intimidate or falsely accuse another*) he intentionally injures or mutilates himself, he will receive 80 strokes of the heavy bamboo. One who is employed to injure or mutilate another will receive the same penalty as the guilty person. If this extends to death, reduce the penalty from the penalty for killing in an affray [Art. 302] one degree.

3. If the official having jurisdiction knows of the circumstances and permits the action (*i.e. if he knows of the feigned illness and he permits* [the one feigning illness] *to change tasks, or if he knows an injury is self-inflicted to avoid a punishment and he permits* [the one injuring himself] *to be considered as maimed, or if he knows that it is a feigned death and he permits the cessation of interrogation*), he will receive the same penalty. If he does not know, he is not punished.

#### Article 365. *Craftily Enticing Another to Commit an Offence.*

In every case where someone entices another with tricks and words to commit an offence, or when he agrees together (*with another to engage in a joint act and intentionally entices*) and causes [the other to] commit an offence and then (*he himself*) apprehends and accuses him, or has another apprehend and accuse him, seeking a reward, or seeks to cause injury to another by having him punished, he will in all cases receive the same penalty as the person who commits the offence. (*The punishment is limited to strokes of the heavy bamboo and exile. [In the sentence] 'agrees together [ . . . ] and causes him to commit an offence', note the word 'causes'. This refers to* [the principal] *enticing another* [to commit an offence] *and also to the joint commission of an offence. If it is merely a matter of joining in the commission of an offence, [and one accuses the others], the law on confession* [Art. 25] should be used.)

## CHAPTER 19

### *Fornication*

#### Article 366. *Fornication.*

1. In the case of fornication with consent, the punishment is 80 strokes of the heavy bamboo. If [the woman] has a husband, the punishment is 90 strokes of the heavy bamboo. For fornication brought about by trick [seduction], (*whether or not she has a husband*), the punishment is 100 strokes of the heavy bamboo.

2. If there is fornication with force, the punishment is strangulation (*with delay*). If it is not consummated, the punishment is 100 strokes of the heavy bamboo and exile to 3000 li. (*For a finding of forcible fornication, it is necessary that there be such force that the woman could not break away, also that others have known* [of the act] *or heard* [a cry], *or that there be injuries to the skin or the body, or a tearing of the clothes. Only then can* [the man] *be sentenced to strangulation. If there is force and then agreement, and on the basis of the agreement* [the sexual act] *is consummated, then this is not a case of* [fornication with] *force. If one man uses force and seizes* [the woman] *and another fornicates, the one who engages in fornication will be tried* [and sentenced to] *strangulation. The one who forcibly seized* [the woman] *will be punished for* [fornication which] *is not consummated; he is punished with exile. Again, if someone sees a woman engaging in fornication, and the one who sees her uses force to fornicate with her, since she is already a woman who engages in fornication, this cannot be viewed as fornication with force. [Rather,] sentence on the basis of the law of fornication brought about by trick* [seduction].)

3. If someone engages in fornication with a young girl of twelve or below, then, although there is agreement, it is the same as fornication with force.

4. As for consensual fornication, or fornication by use of tricks [seduction], the man and the woman receive the same punishment. If the fornication causes the birth of a boy or a girl, it will be the responsibility of the man to bring it up. The adulterous wife will be sold or married [to another] as her husband wishes. If he wishes to keep her, he may. If she

is married or sold to the adulterous lover, the adulterous lover and the real husband will both receive 80 strokes of the heavy bamboo. The woman will have to leave the new home and return to her own clan. The property will be forfeit to the government.

5. In the case of fornication with force, the woman is not punished.

6. If there is a broker or one who accepts (*individuals into his house*) to engage in fornication, his punishment will be reduced one degree from that of those who (*by means of agreement or craftiness*) engage in fornication.

7. (*If a person is guilty of fornication which has already been discovered, the one who acted for him*) in privately making an agreement in regard to fornication [e.g. by giving money to the husband] will in each case [have his punishment] reduced two degrees (*from the penalty for fornication with consent, craftiness* [seduction], or force).

8. If [the guilty pair] have not been seized in a place where the fornication took place [but were apprehended somewhere else], or someone pointed them out as fornicators [but offered no proof], they will not be punished. If the adulterous wife becomes pregnant (*then although there is proof as to the woman, there is no proof as to the man*), the punishment is inflicted on the woman alone.

#### Article 367. *Facilitating and Tolerating the Wife's or Concubine's Fornication.*

1. In the case of anyone who facilitates and tolerates his wife or concubine engaging in fornication with another, the husband, the adulterous lover, and the adulterous wife will each receive 90 strokes of the heavy bamboo. If someone forces his wife, concubine, or adopted daughter to engage in fornication with another, the husband or the adoptive father will each receive 100 strokes of the heavy bamboo. The male fornicator will receive 80 strokes of the heavy bamboo. The wife or the daughter will not be punished. Moreover, her relationship [with the husband or father] is terminated. She is returned to her clan.

2. If someone facilitates and tolerates or forces his own daughters, or the wives or concubines of sons and son's sons, to engage in fornication, the punishment will be the same.

3. If consideration is used to buy a divorce or to sell a divorce [i.e. someone gives the husband money to cause him to get rid of his wife] (*in order*) that [the one giving it] may marry another man's wife (*by*

*agreement*), the husband and the wife and the one who is buying the divorce, will each be punished with 100 strokes of the heavy bamboo. The wife will be divorced and returned to her own clan, and the wedding gifts will be forfeit to the government. If the one buying the divorce and the wife use tricks to put pressure on the husband to divorce her, and if otherwise the husband would not have sold the divorce, he is not punished. The one who buys the divorce and the wife are each given 60 strokes of the heavy bamboo and penal servitude of one year. Redemption will be received for the remainder of the wife's penalty. She will be returned to her husband, who may marry her off or sell her. If it is a concubine, reduce the punishment one degree. If there is a broker, his penalty will be reduced from that of the offender (*the one who purchases the divorce or uses force to induce the sale of the divorce*) one degree. (*If* [the husband] *does not denounce* [the woman] *because of her adultery, but marries her off and sells* [her] *to the male adulterer, the husband receives 100 strokes of the heavy bamboo and the adulterous lover and the adulterous wife will each get the full punishment of the law* [applicable to each, Art. 366].)

#### Article 368. *Fornication Between Relatives.*

1. Everyone who has sexual relations with a member of the same clan who is not within the degrees of mourning, or with the wife of a relative beyond the degrees of mourning, will receive 100 strokes of the heavy bamboo. (*If there is force, the male fornicator will be beheaded with delay.*)

2. If one fornicates with (*a paternal or maternal*) relative of the fifth degree and above, with the wife of a relative of the fifth degree or above, or with the daughter of the wife's former husband, or with his sisters of the same mother [as himself but] a different father, the punishment is 100 strokes of the heavy bamboo and three years of penal servitude. If there is force, (*the male fornicator*) will be beheaded (*with delay*). If there is fornication with the paternal grandmother's father's brother's son's wife, or the paternal grandfather's sister, or the wife of the paternal grandfather's father's father's brother's son's son, or a daughter of the paternal grandfather's father's father's brother's son, or daughters of the father's brothers, or the mother's sisters, or wives of brothers, or the wives of the brother's sons (*the male fornicator and the female fornicator*) will each be sentenced to strangulation (*with* [immediate] *execution*). It is only in the case of fornication with a paternal grandfather's sister or the daughter of

a paternal grandfather's father's father's brother's son who have left the family by marriage that there is execution with delay. If there is force, (*then the male fornicator is*) sentenced to beheading (*with* [immediate] *execution. It is only in the case of fornication with force with the daughter of the paternal grandfather's father's brother's son's son or father's brother's son's daughter or brother's son's daughter who have been married, and thus reduced the degree of the mourning relationship, that there will be beheading with delay. If there is fornication with the natural mother of the wife, then to award* [the penalty] *as for a relative of the fifth degree is too light, so sentence as for the sisters of his own mother.*)

3. If someone fornicates with the concubine of his father or paternal grandfather, or with the wife of the elder or younger brother of the father, or with a sister of his father, or with his own sisters, or with the wife of a son or son's son, or with the daughter of a brother, the (*male and female fornicators*) will be beheaded (*immediately*). If there is force, the male fornicator will be immediately beheaded.

4. Everyone who fornicates with a concubine (*of one of the formerly mentioned* [male] *relatives*) will receive a punishment reduced one degree (*from that for fornicating with a wife*). If there is force, he will be strangled (*with delay. The question of whether the wife or the daughter receives the same penalty or not, as well as whether or not the act was consummated, whether there was a broker, whether there were those who tolerated and facilitated the act, will be decided according to the article on fornication* [Art. 366]. *However, sons or daughters born of fornication in the same clan are not to be entered in the clan register. It is permitted to register them in any other part of the register* [presumably parts reserved for base persons].)

#### Article 369. *Falsely Accusing the Father-in-Law of Fornication.*

Every wife of a son who falsely accuses her father-in-law of fornication, or a younger brother's wife who falsely accuses the husband's elder brother of fornication by deceit, will be beheaded (*with delay*). In a case where one forcibly fornicates with the wife of his son and the act is not consummated, and the wife commits suicide, then the fornicator will be sentenced according to the sub-statute of forcibly engaging in fornication with a family member when it is not consummated [Art. 368.02].<sup>9</sup> If the adopted child

<sup>9</sup> Huang cites Art. 368.1.

falsely accuses the adoptive father of fornication by deceit, sentence according to the [law of the] hired servant who falsely accuses the family head [Art. 337]. If the wife of the elder brother falsely accuses the younger brother of her husband, or if someone falsely accused a relative of the fifth degree and above, sentence for making false accusations [ibid.].

#### Article 370. *A Slave or Hired Servant Who Engages in Fornication with the Wife of the Household Head.*

1. Whenever a slave or hired servant engages in fornication with the wife or daughter of the head of the household, both will be beheaded (*immediately*).

2. If he engages in fornication with a relative of the second degree, or with the wife of a relative in the second degree, of the head of the household, the punishment is strangulation (*with delay*). Reduce the penalty for the wife or daughter [from that of the man] one degree. If he fornicates with a relative of the fifth degree or above of the head of the household, or the wife of someone in the fifth degree or above, each will receive 100 strokes of the heavy bamboo and exile to 2000 *li*. If there is force, the punishment is beheading (*with delay*).

3. If [the woman] is a concubine, each punishment will be reduced one degree. If there is force, there is beheading (*with delay. Military servants, archers, and gate attendants who are in the service of an official will all be treated as hired servants.*)

#### Article 371. *Fornicating with a Wife or Daughter of Someone in the Area to Which One is Posted.*

1. Every military or civil official, or clerk (*charged with the direction* [of civilians], *or command* [of military personnel]) who fornicates with the wife or daughter of someone within his area will receive the general penalty for ordinary fornication increased two degrees [Art. 366]. In each case he will be removed from office or employment without the possibility of re-employment. The wife or daughter will be punished for ordinary fornication [Art. 366].

2. If he fornicates with a woman who is incarcerated, he will receive 100 strokes of the heavy bamboo and penal servitude of three years. As for the

woman who is incarcerated, merely sentence her to the punishment for her original offence. (*If the woman is out under security, then use the penalty for fornicating with someone in one's area [above]. If he uses force, the penalty is strangulation.*)

**Article 372. *Those Who Are in Mourning, or Buddhist or Taoist Priests who Fornicate.***

If anyone who is mourning for his father, mother, or husband, or if a Buddhist priest or nun, or a Taoist priest or nun, commits fornication, in each case add to the penalty for ordinary persons fornicating two degrees [Art. 366]. The one who fornicates with them will be guilty of the penalty for ordinary fornication. (*If there is force, the fornicator will be strangled with delay. The woman will not be punished.*)

**Article 373. *Persons of Honourable and Base Condition who Fornicate with Each Other.***

Every slave who fornicates with an honourable man's wife or daughter will receive the usual penalty for fornication increased one degree. (*Whether there is agreement, or trick, or whether there is a husband or no husband, the same [rule of augmentation is applied] in all cases. If there is force, the punishment is beheading.*) If an honourable man fornicates with another person's female slave, (*the man and woman will each [receive a punishment] reduced from that for ordinary fornication [Art. 366] one degree. (If there is force, then sentence according to the general rule [Art. 366]. Sentence to strangulation with delay. If the fornication with force has not yet been consummated, in all cases the punishment will be 100 strokes of the heavy bamboo and exile to 3000 li.)*) If a male and female slave fornicate by agreement, sentence on the basis of ordinary fornication [Art. 366].

**Article 374. *An Official or Clerk who Sleeps with a Prostitute.***

1. Every (*civil or military*) official or clerk who sleeps with a prostitute will receive 60 strokes of the heavy bamboo. (*Also use this law to punish*

*embracing and drinking wine with prostitutes.*) A go-between [will receive the same penalty] reduced one degree.

2. If the son or son's son of an official ([who has] *a title which is inheritable*) sleeps with a prostitute, the penalty is the same.

**Article 375. *To Buy a Person of Honourable Condition as a Prostitute.***

Every singer, actor, or musician who buys the son or daughter of a person of honourable condition to be a singer or actor, or takes [a girl from an honourable family] in marriage as a wife or concubine, or adopts a person [from an honourable family] as son or daughter, will receive 100 strokes of the heavy bamboo. If he knows the circumstances, the one who sells in marriage will receive the same penalty [as the one who buys]. The go-between will receive the same penalty reduced one degree. The presents will be forfeit to the government. The boy or girl will be returned to his or her clan.

CHAPTER 20  
*Miscellaneous Offences*

Article 376. *Destruction of the Government Notice Pavilion.*

Everyone who destroys a government notice pavilion or injures the notice board (*inside a pavilion*) will receive 100 strokes of the heavy bamboo and be exiled to 3000 *li*. (*Moreover, each will be required in each case to repair it.*)

Article 377. *Furnishing Medical Care and Medicine to Artisans and Soldiers.*

When military persons get sick in their place of garrison, or labourers or artisans get sick in the place where they are employed, if the said (*garrison or supervisory*) officials do not (*by sending a message to the person having jurisdiction*) seek to be given physicians and medicines to treat them, [the said officials] will receive 40 strokes of the light bamboo. If, as a result, death ensues, the punishment is 80 strokes of the heavy bamboo. If [notice of the existence of the injured person] has already been sent to the proper office, and the latter does not provide good physicians or medicine appropriate for the disease or treatment, the punishment is the same.

Article 378. *Gambling.*

1. Every person who gambles for property will receive 80 strokes of the heavy bamboo. The things (*which have been*) spread out (*on*) the surface [the gambling materials and stakes] will be forfeit to the government. Those who run gambling halls (*though they do not join in the gambling, will also*) receive the same penalty. (*The hall will also be forfeit to the government.*) Only those who are seen and discovered will be punished. If it is an official in service, add one degree [to the punishment].

2. If it is gambling for drinks or food, there is no punishment.

Article 379. *Castration.*

No official or ordinary household may adopt another person's son and castrate him. (*Only the imperial household may use them* [eunuchs].) In the case of a violation, the punishment is 100 strokes of the heavy bamboo and exile to 3000 *li*. The son will be given to his family. (*The punishment is for those who exceed* [the rights of] *their private status and castrate.*)

Article 380. *Inciting Another to Act in Connection with a Public Matter.*

1. Every official or clerk or any other person whatsoever who (*either for another or for himself*) distorts the rules and [without authorization] incites [an official] to act in a public matter, will receive 50 strokes of the light bamboo. As soon as he incites the action, he is liable. (*Do not differentiate according to whether the act is carried out or not*). If the officials or clerks having jurisdiction respond to the incitement (*and distort the rules*), they will receive the same penalty. If they do not, they will not be punished. If the matter (*to which the distortion of the rules relates*) has already been carried out, the punishment is 100 strokes of the heavy bamboo. If the penalty for the offence [provided by the law] whose application is perverted (*by decreasing or increasing the penalty*) is greater than (100 strokes of the heavy bamboo), then punish the official or clerk on the basis of intentionally decreasing or increasing a penalty [Art. 409]. If someone incites someone else [to act in a public matter] for the benefit of another or a relative (*so that the penalty for the matter* [as to which the law] *is perverted is more serious than 50 strokes of the light bamboo*), apply the [above] penalty for officials or clerks reduced three degrees. If he incites [another] to act in his own matter, add (*to the penalty which must be awarded for his own offence*) one degree.

2. If a supervisor or an influential person (*in distortion of the law*) incites the taking of action for the benefit of another, the penalty is 100 strokes of the heavy bamboo. If the penalty for violation of the law which is distorted is greater (*than 100 strokes of the heavy bamboo*), then he will receive the same penalty as an official (*for intentionally increasing or decreasing a penalty* [Art. 409]). If this causes the penalty to amount to death, reduce one degree.

3. If someone (*distorts the law*) and receives illegally obtained property, then calculate the amount of the illegally obtained property, (*total the amount and sentence for the whole*) and sentence on the basis of [receiving

consideration] and perverting the law [Art. 344]. (In the case of all of the officials, or clerks, or others who incite action by others as well as the responsible officials, clerks, supervisors, and persons of influence mentioned above, if they do not distort the rules but receive illegally obtained property, then merely sentence them for [receiving] illegally obtained property and not causing perversion of the law [Art. 344]. If they do not distort the rules and also do not receive consideration, then do not punish them.)

4. If an official or clerk does not fear the supervisors or persons of influence, but takes the evidence of the inciting of action in a public matter and sends it to the superior and makes an accusation, he will be promoted one degree. (If a clerk is about to be commissioned as an official he will be promoted one [additional] rank [e.g. the clerk would normally be promoted to be a ninth rank official. If eligible under this provision, he would become an eighth rank official].)

#### Article 381. Private Agreements on Public Matters.

(When this has been revealed and brought before the official.)

In every case of private agreements over public matters [to settle privately some public matter such as an offence] (in each case according to whether the circumstances of the offence were minor or serious), award a penalty that is reduced from the offender's penalty two degrees. The punishment is limited to 50 strokes of the light bamboo. (If the private agreement is over a homicide or fornication, then in each case [sentence] in accordance with the law [for that offence]. The cases are not within this rule of only inflicting 50 strokes of the light bamboo.)

#### Article 382. Accidental Setting of Fires.

1. Everyone who accidentally sets fire to and burns his own house will receive 40 strokes of the light bamboo. If the fire spreads to government or private houses or buildings, the punishment is 50 strokes of the light bamboo. If as a result someone dies (do not distinguish between relatives and others), the punishment is 100 strokes of the heavy bamboo. (But if there are [only] injuries to persons, do not inflict punishment for injuring. This) punishment (is merely) to be inflicted (on the one who caused) the accidental fire. If the fire spreads to a temple devoted to the ancestors of the Emperor or to an Imperial Palace, then punish with strangulation (with delay).

2. If it is [a shrine to] the god of the earth [possibly abbreviation for spirits of land and grain, see Art. 21] reduce one degree. (In all cases this refers to the fire which spreads from the outside.)

3. One who sets a fire accidentally within the area of the tombs of the Emperors (even though it does not spread) will receive 80 strokes of the heavy bamboo and penal servitude of two years. (Moreover, if) the fire spreads to the forest and burns trees (within the enclosures of the imperial tombs<sup>10</sup>), the punishment is 100 strokes of the heavy bamboo and exile to 2000 li. One who sets a fire accidentally in an official public building, or a granary, or treasury will also receive 80 strokes of the heavy bamboo and penal servitude of two years. As for the guardian (of a granary or treasury) if, because of [the fire], he breaks and enters and takes valuables, calculate the value of the illegally obtained property and sentence on the basis of the supervisor or guardian himself stealing [Art. 264]. (Do not distinguish between principal and accessory.) If he sets the fire outside accidentally, and it spreads and burns, then in each case the penalty will be reduced three degrees. (If the guardian in consequence breaks and enters and takes valuables, he is not within the rule of reducing the degrees. If an ordinary person because of the fire steals [property], sentence him on the basis of ordinary persons stealing [from a granary or treasury. Art. 265]. If the fire is set accidentally inside a granary or treasury, the punishment is 80 strokes of the heavy bamboo and penal servitude of two years. Apply by analogy the statute governing the situation where there are thefts from a granary or treasury and the treasury boys are all required to reimburse [the government for the loss] out of their own property [Art. 131.01].

4. One who lights a fire inside a treasury or granary (even though there is no loss from the fire) will receive 80 strokes of the heavy bamboo.

5. No guard of the Imperial Palace or palace hall or of granaries or treasuries, nor any guard of prisoners, who (inside or outside) sees a fire begin may leave his post. A violation is punished with 100 strokes of the heavy bamboo. (One who sets off fireworks will be punished for violation of an imperial written order [Art. 62].)

#### Article 383. Intentional Burning of the House of Another.

1. Anyone who intentionally sets fire to his own house will receive 100 strokes of the heavy bamboo. If the fire spreads to a government or private

<sup>10</sup> The *Du Li Cun Yi* says 'forests' [*lin*] but this seems to be a misprint for 'tombs' [*ling*].

house, or stores of goods, the punishment is 100 strokes of the heavy bamboo and penal servitude of three years. If he steals and takes objects, his punishment is beheading (*with delay*). If [the fire] kills or injures another, punish on the basis of intentionally killing [Art. 290] or injuring [Art. 302].

2. One who intentionally sets fire to a government or private house, a government building, a granary or treasury, or stores of government goods (*do not distinguish between principal and accessory*) will be beheaded (*with delay*. *It is necessary that [the offender] be apprehended at the spot where he set the fire, and that there be clear evidence. Only then can he be punished.*) One who intentionally sets fire to another's empty houses or to goods [that are] stored in a field, will in each case [be punished as above] reduced one degree.

3. Moreover, calculate the diminished value of the damaged property. Take property of the offender sufficient to compensate [for the damage] and give it to the government or the owner. (*Deduct the [value] of the remains of things which have been burnt* [from the total value of the affected property]. *Compute the value of the things which were [completely] burnt, and order the property of the offender to be converted into silver* [to compensate for them]. *If there is one owner, he will be fully compensated. If there are several owners, calculate the number of places that were intentionally burnt, and divide the property [of the offender] into several parts* [according to the number of injured owners] *and apportion the goods as compensation* [among the owners], *i.e. whether [the injured parties] are the government or individuals, the property will be taken and [distributed] equally according to its quality as compensation to all*, [i.e. each will get the same percentage of property of high and low quality.] *If the property of the wrongdoer is completely exhausted, he will not be levied upon. If he is destitute, then merely adjudge the punishment. If [the offender] is a slave or a hired servant, sentence as for ordinary persons.*)

#### Article 384. *Theatrical Performances* [Za Zhu].

Those musicians who perform in a theatrical performance are not permitted to dress up as former emperors or empresses, princesses, former holy men, sages, loyal councillors, or heroes. A violator will be punished with 100 strokes of the heavy bamboo. The households of officials or ordinary persons who have permitted or ordered these performances will receive the same penalty. [As for appearing as] immortals or virtuous men, chaste

wives, filial sons, or obedient son's children with an aim to motivate men to be good, these [actions] are not within this rule.

#### Article 385. *Violating an Order*.

Everyone who violates an order [*ling*] will receive 50 strokes of the light bamboo. (*This refers to the case where the order has a prohibition but the law has no name for the offence. If someone intentionally violates an imperial decree* [an expression of the imperial will] [*zhao zhi*], *then he is punished for violating an imperial written order* [Art. 62], [but] *one who intentionally violates a decision by the Emperor on a memorial submitted to him is to be sentenced for violating an order* [this article].)

#### Article 386. [Doing] *That Which Ought not to be Done*.

Everyone who does that which ought not to be done will receive 40 strokes of the light bamboo. If the matter is adjudged to be more serious, he will be punished with 80 strokes of the heavy bamboo. (*Because* [in the cases provided for here] *the law does not provide a name for the offence, consider whether the offence is serious or minor and, according to the circumstances, adjudge the penalty* [for violation of this article].)

## CHAPTER 2 I

*Arrests and Escapes: I***Article 387.** *The Pursuit of Offenders by Those Persons Charged with Apprehending Them.*

Everyone (*in the government*) charged with arresting persons who receives (*a government*) order to pursue an offender and presents pretexts [for not going] and does not go will, if he knows the place where the offender is and does not (*immediately*) arrest him, receive the penalty for the offence (*committed by*) the offender reduced one degree. (*Take the penalty for the offence [committed by the offender who has committed] the most serious offence as the basis, and reduce accordingly. Moreover, suspend execution of the penalty and if*) within thirty days [the one charged to arrest] himself arrests half [of the offenders] or more, or if the total taken do not reach one half but the ones picked up are the most serious [offenders], (*then this achievement is sufficient to redeem the offence*) and all [persons charged to arrest will] avoid their penalty. Although one man performs the arrests, all are treated the same [i.e. they are acquitted]. If (*he has not managed to apprehend the offenders during the time period but*) the guilty person is already dead or has confessed completely, [the one charged with making the arrest] also avoids the penalty. (*If some of the offenders are dead or some have confessed, but there are still*) others [who are not dead and who have not confessed] who are not included, then [the one charged with the responsibility to arrest] will merely receive (*the penalty of the offenders*) who have not [died or confessed] (*reduced [one] degree*). The persons who are not (*specially charged with*) arresting [persons] but who are temporarily charged with this mission, (*and who either make up reasons and do not go or know [where the offender is], and do not arrest [him]*) will each receive a penalty reduced one degree from the punishment of one who is charged to arrest [offenders]. (*They still receive a delay and if they arrest within it, they avoid [punishment]. As for [both] those who have a duty to arrest and those who do not, if they*) receive consideration and intentionally allow [the offenders] to go, do not give them a delay for making the arrest. Each will receive the same penalty (*as the most serious penalty*)

of those who were condemned. (*It is necessary that the matter of the offender [who was to be arrested] be decided so that the penalty can be made the same. If what has been received as*) illegally obtained property results in a penalty that is more serious (*than the penalty of the offender*), calculate the amount (*of the illegally obtained property*) and sentence for (*a person not on the government payroll*) who has [received consideration in that amount] and caused perversion of the law according to the heavier penalty [Art. 344].

**Article 388.** *An Offender Who Resists Arrest.*

1. Every offender (*whose case comes to light and*) who runs away (*or who commits an offence and although he does not run away when the official sends persons to arrest him, he resists*) and refuses (*to submit*) to arrest, will have two degrees added to the penalty for his original offence. The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 li. (*If his own offence is one that entails death, there is no increase.*) If he strikes (*the arresting*) person so that he injures him to the extent of causing a fracture or worse, he will be strangled (*with delay*). If he kills (*the arresting*) person, he will be beheaded (*with delay*). The accessories will each have their punishments reduced one degree.

2. If the offender is armed and resists arrest and the one who is arresting him kills him in the struggle, or a prisoner (*someone in prison or someone who is being transferred under escort, whose case has been finally decided*) runs away and the guard pursues and kills him, or a prisoner (*because of being pursued*) is depressed and kills himself (*do not distinguish between prisoners sentenced to death and those who are not*)—in all these cases, there is no penalty.

3. If (*the prisoner, though he has run away*) has been rearrested, (*or the offender, although he has run away*) does not resist arrest, but (*the arresting person is angered by his running away and without authorization*) kills him or injures him by fracturing (*these are all cases where the prisoner is not under a death sentence*), then in each case sentence on the basis of killing or injuring in an affray [Art. 290]. (*If*) the offender's own offence entails the death (*penalty*) and [the guard] kills without authority, [the guard] will receive 100 strokes of the heavy bamboo (*this is on the basis of the one arresting being stirred to anger. If he plots to kill, this is another matter.*)

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Article 389. *Imprisoned Offenders Who Escape From Prison*  
[Without Force] as well as Those Who Use Force and  
Escape.

1. Any offender who is imprisoned and escapes from prison [through the gate] or who frees himself from his fetters and handcuffs and escapes from prison [over the wall] and runs away (*if the penalty is strokes with the light bamboo, heavy bamboo, penal servitude, or exile*), in each case will have two degrees added to his original penalty. (*If*), because (*he himself escapes* [through the gate] or *by going* [over the wall]), he stealthily releases (*his co-prisoners*) and the penalties of the other prisoners [he releases] are heavier [than his], he will receive the same penalty as the [most serious penalty among] those of the other [released] prisoners (*whose penalties are heavier than his*). The penalty is limited to 100 strokes of the heavy bamboo and exile to 3000 *li*. If his own offence entails death, follow the ordinary law.

2. Any imprisoned offender who uses force to escape (*it does not matter if his original penalty was serious or not, if he plotted and gave assistance*) he will be beheaded (*with delay*). If a person confined in the same prison does not know the circumstances (*of the escape with force*), he is not punished.

CHAPTER 22  
*Arrests and Escapes: 2*

Article 390. *Persons Sentenced to Penal Servitude or Exile who Run Away.*

1. In every case of a sentence of penal servitude, exile, transportation, or military exile, (*offenders who have already arrived at the place of sentence*) and run away (*from that place*) during the period of service, will each for one day be awarded 50 strokes of the light bamboo. For each [additional] three days, one degree will be added. The punishment is limited to 100 strokes of the heavy bamboo. [The offenders] will still be sent back to the place to which they were sentenced. As for anyone sentenced to penal servitude, (*the said*) years of penal servitude of the original sentence will [begin] again from his new capture. The service of the past months and days already served will not count.

2. If persons already sentenced (*by competent authority*) to penal servitude, exile, transportation, or military exile have begun their journey but have not yet arrived at the place of sentence and *en route* they run away, (*then calculate the days* [they are loose]), and adjudge a penalty like that (*for running away from the place of exile* [above]).

3. If a guardian (*of the place of sentence*) or the escort guard (*en route*) does not discover the escape [without violence] of prisoners, he will for [the loss of] one prisoner be sentenced to 60 strokes of the heavy bamboo. For each [additional] person, one degree will be added. The penalty is limited to 100 strokes of the heavy bamboo. He will be allowed 100 days to pursue and catch [the escaped prisoners]. The supervisor (*at the place of sentence*) or the commanding officer of the escort guards (*en route*) will receive [the same penalty] as that for the guardians at the place of exile and the escort guards, reduced three degrees. If, within the limit [of the above delay], he apprehends the fugitives, or if another apprehends them, or if [the prisoners] die or turn themselves in, in all these cases there is no punishment. Those who intentionally release [prisoners] (*do not distinguish between officials and employees*) will each receive the same penalty (*of penal servitude, exile, transportation, or military exile*) as the prisoner. If he receives consideration, calculate the amount of illegally obtained property (*received*) and sentence

on the basis of [receiving consideration] and perverting the law, awarding penalty for the more serious offence [Art. 344.] (*If the punishment for the amount of illegally obtained property is greater, sentence on the basis of [receiving consideration] and perverting the law. If the penalty of intentionally releasing prisoners is more severe, sentence on the basis of intentionally releasing prisoners.*)

#### Article 391. *Delays in Delivering Prisoners.*

1. In the case of every offender who is sentenced to penal servitude, exile, transportation, or military exile, after sentencing, the (*original*) investigating official must within ten days according to the rules (*provided in the judgment*) have them [the prisoners] put in fetters and handcuffs, send persons to guard and escort them, keep a careful watch over them, and send them to the place designated for serving the sentence. If without good cause, he delays beyond the authorized time limit and does not send [the prisoners], then for three days [delay], sentence him to 20 strokes of the light bamboo. For each [additional] three days, add one degree. (*Sentence on the basis of the clerk as the principal.*) The punishment is limited to 60 strokes of the heavy bamboo. If the prisoner ([whose delivery] *was delayed*) runs away, then the (*said*) supervisor (*suspend his salary and establish a time-limit for making the arrest*) and the clerk will be sent to substitute for the (*escaped*) offender in serving his sentence. After the offender is caught, and is in the hands of the government [and thus can] replace [the clerk] in performing service, then from the day (*when the offender*) arrives (*at the place of sentence*) [the clerk] will be released.

2. If officials in neighbouring territories (*have*) an offender (*to transfer forward*) to [his destination], and they delay and do not immediately transfer him, the penalty is the same. (*If delays result, calculate the days and sentence accordingly. If in consequence there is escape, send [the clerk] to the place [of sentence] to replace [the offender].*)

3. If at the time of sending [an offender] into exile the supervisory officials or clerks do not affix fetters and handcuffs, in accord with the law, and if as a result the prisoners *en route* free themselves from their fetters and handcuffs and run away, they [the supervisory officials or clerks] will receive the same penalty as escort guards (*who lose prisoners* [Art. 390]. *Distinguish between officials and clerks. The penalty is limited to one hundred strokes of the heavy bamboo. There will be a delay to pursue and apprehend the offender.*)

4. The penalty will be applied to those who are the cause (*the negligent ones*). If they have received consideration, calculate the amount of illegally obtained property and sentence for [receiving consideration] and perverting the law according to the heavier penalty [Art. 344]. (*This applies to all the above.*)

CHAPTER 23  
*Arrests and Escapes: 3*

**Article 392.** *A Guardian who Does Not Discover the Escape of a Prisoner.*

1. Every jail guard who does not discover the [non-violent] escape of a prisoner will be punished with the prisoner's (original) penalty reduced two degrees, (taking the penalty of that prisoner whose penalty was heaviest as the basis of the [guard's] sentence). If the prisoner has used violence to escape from the prison, reduce [the guard's penalty] (from the penalty for failing to discover [the loss]) two more degrees. Give him a delay of 100 days (suspending the punishment) to pursue and apprehend [the offender]. If within the delay he himself apprehends the offender, or if someone else apprehends him, or if the prisoner dies or turns himself in, (the prison guards) will all avoid punishment. The wardens and clerks in charge of the prison will receive the penalty for the jail guard reduced three degrees. If the warden has already himself counted the prisoners one by one and the chains and handcuffs are all according to rule, and if he has again received written statements from the warder and jail guards that the prisoners are securely locked up, he is not punished. If (the warden on the said day) has not counted [the prisoners] so that there is the loss of a prisoner (who escapes by using violence), he will receive the same penalty as the warder. (If the warden, the jail guards, warders, or clerks in charge) intentionally release [a prisoner], do not give the delay for apprehending [the escaped prisoner]. (The official and employee) will each receive the same penalty as the prisoner. (If it is death, reduce it one degree. But if the [prisoner's] penalty, although determined) has not been executed, and if they themselves apprehend the offender, or if someone else apprehends him, or if the prisoner dies or confesses, in each case reduce the penalty (from that of the prisoner) one degree. If [the official or employee] receives consideration (and intentionally lets [the prisoner] go), calculate the amount of illegally obtained property and sentence for the offence of [receiving consideration] and perverting the law [Art. 344] according to the heavier penalty.

2. If outlaws enter (the prison) from outside and free a prisoner and

their force is too strong to be resisted, (the officials and employees) will all avoid punishment.

3. If the escort guard responsible for escorting prisoners for transfer (for trial) does not discover the loss of a prisoner *en route*, he receives the same penalty. (If it is the jail guard, reduce the penalty two degrees. Moreover, if during the delay they apprehend the prisoner, there is no penalty. If they intentionally release him [with or without] receiving consideration, they receive the same penalty as the prisoner. If there is taking away by force, there is no penalty.)

**Article 393.** *Knowing the Circumstances and Hiding an Offender.*

(This Refers to Those Who are not Relatives of the Offenders and to the Case where the Offenders have not yet been Brought before the Official.)

1. In the case of anyone who knows (that another) has committed an offence, that it has been discovered, and that the official has sent people to pursue and apprehend [the offender], who hides (the offender) in his house and does not apprehend him and make an accusation, or who points out to him (an escape) route, or gives (the runaway) food and clothing and sends him to a hiding-place (in another location), in each case sentence him to the offender's penalty (for his offence) reduced one degree. (The word 'each' indicates the actions of hiding [in his house], pointing out [a route], or supplying [the offender].) If the offender has committed several offences, and the one hiding him knows of only one, take the offence he knows about and [sentence him to the penalty for that offence] reduced one degree. If relatives join with outsiders to hide someone, although the relatives avoid this penalty [of receiving the offender's penalty or of having their penalties] reduced in degree [Art. 32], the outsiders are still punished with the penalty for hiding. If the matter has not been discovered and the officials have not yet gone to arrest [the offender], and someone hides [him], just punish for [doing that which] ought not to be done [Art. 386].) As for the case of (one who has already run off to another place) and who is successively sent from place to place and hidden, if [those who help him] know the circumstances, (the ones who send him around and hide him) will all be punished (with the penalty of the offender reduced one degree). If they do not know, there is no penalty.

2. If someone knows that the authorities are pursuing an offender in order to apprehend him and leaks the information so that the offender takes flight and escapes, sentence him to the penalty for the [offender] (who has

committed the offence) reduced one degree. (Also do not give him a delay for apprehending [the offender].) If before the final judgment he himself apprehends him, he avoids the penalty (for leaking information). If another person apprehends [the offender], or the offender himself dies or turns himself in, again in each case reduce the penalty one degree. (The word 'each' indicates the cases where another person apprehends [the offender], [the offender] dies, or he turns himself in.)

#### Article 394. Time-Limit for Apprehending Thieves.

1. In all cases of apprehending those guilty of forcible [Art. 266] and non-manifest [Art. 269] theft, taking the day (when the government) learns of it as a beginning, (there is a period of one month within which to apprehend [the offender]). If the constables or the police do not apprehend within one month the one who has committed the theft with force, they will receive 20 strokes of the light bamboo. For two months the punishment is 30 strokes of the light bamboo. For three months, 40 strokes of the light bamboo. For the arresting 'official' [as opposed to employee], there is imposed a fine of two months' salary. For the constables or police who do not apprehend [an offender] who has committed non-manifest theft within one month, the punishment is 10 strokes of the light bamboo. For two months, the punishment is 20 strokes of the light bamboo. For three months, the punishment is 30 strokes of the light bamboo. The arresting official will be fined one month's salary. If within the time limits they apprehend as many as half of the thieves, they will not be punished.

2. If (the victim of the theft) delays twenty days or more and then complains to the government (the day when the event occurred is already a long time past), do not use this time limit (for apprehending). The time limit for apprehending an offender who is guilty of homicide is the same as the limit for one who commits forcible theft [Art. 266]. (For the fine of the salary of officials, three months must have passed with no apprehension. Only then can there be a fine.)

## CHAPTER 24

### Judgments and Prisoners: I

#### Article 395. Prisoners Who should be Incarcerated and Who Are Not.

1. In every case in which (by the act of the official in charge of the trial of a case) a prisoner who should be incarcerated is not incarcerated (Those who are guilty of offences entailing penal servitude or above, or women who have committed fornication, are incarcerated in prison. Officials who commit public or private offences, military personnel, or civilians who commit minor offences, the elderly, youths, and the seriously disabled are restricted [in their movements] outside the prison), or if [prisoners] should be put in fetters and handcuffs and they are not fettered or put in handcuffs, or (the prisoner is in fetters and handcuffs and they are) taken off, (each [such official] will be sentenced according to the gravity of the [prisoner's] offence). If the prisoner has been guilty of [an offence] punishable with the penalty of strokes of the heavy bamboo, the said official [having jurisdiction] will receive 30 strokes of the light bamboo. If it is penal servitude, he will receive 40 strokes of the light bamboo. If it is exile, he will receive 50 strokes of the light bamboo. If it is death, he will receive 60 strokes of the heavy bamboo. If [the prisoner] must be put in handcuffs and is put in fetters, or he must be put in fetters and he is put in handcuffs, [the official] will have his penalty reduced (from the penalty for not putting in fetters or handcuffs) one degree.

2. If the prisoner frees himself (of fetters and handcuffs), or the warder or clerk in charge of the prison, or the jail guards privately take off the prisoner's fetters and handcuffs, the punishment is also like (that of the magistrate who has them taken off). If the warden knows (that [the prisoner] has himself taken them off or that another has taken them off) and does not report it, [he will receive] the same penalty (as that of the warders, clerks in charge, or jail guards. If he does not know, do not punish.)

3. The (official in charge of the trial of the case who) incarcerates a prisoner who does not have to be incarcerated, or chains one who does not have to be chained, (making use of the law to make the people suffer), will receive 60 strokes of the heavy bamboo.

4. If (the official in charge of the trial of a case, the warder, warden, clerk in charge [of the prison], or the jail guard) receives consideration (to increase or decrease the severity of the treatment), calculate the value of the illegally obtained property and sentence for [receiving consideration] and perverting the law according to the heavier penalty [Art. 344]. (For one who is on the government payroll and for a value of 80 taels, the law provides for strangulation.)

**Article 396. Intentionally Incarcerating Law-abiding Persons and Putting Them to the Question.**

1. Every official or clerk who, cherishing private enmity, intentionally incarcerates a law-abiding person will receive 80 strokes of the heavy bamboo. (A law-abiding person is one who is peaceable and quiet and not involved in any matter and also one whose name is not entered in the government records [as, for example, for having committed an offence or other wrongful act]. This does not refer to the sort of law-abiding person indirectly involved with public matters cited below.) If death results, punish [the official] with strangulation (with delay). If the warden, warders, clerks in charge of the prison, or jail guards know [the situation] and do not report it, they will receive the same penalty. If death results, reduce one degree. If they do not know, do not punish. If, because (of an investigation) into a public matter, a law-abiding person is indirectly involved and is brought before the official, and he (in fact) makes no confession (to an offence) [but the official] does not release him under security and mistakenly imprisons him and causes death, the [official's] punishment is 80 strokes of the heavy bamboo. (If he is interrogated about the matter with which he is indirectly connected) and there is a file for the case, and it is proper to incarcerate him, (then although death ensues) there is no punishment.

2. If (an official or clerk, cherishing private enmity) puts a law-abiding person to the question he will (even though there is no injury) receive 80 strokes of the heavy bamboo. If there is injury amounting to fracturing or above, sentence for injuring in an ordinary affray [Art. 302]. If death results, behead (with delay). If an official in the same office or a jail guard knows the circumstances, (and together with him) jointly conducts the interrogation, give the same punishment. If death results, reduce one degree. In the case of one who does not know the circumstances (and joins in the interrogation), as well as one (who even though he joins in the interrogation, simply) puts him to the question and beats him, according to the law, (then,

although death results there is) no punishment. If because of a public matter, a law-abiding person is indirectly involved and brought before the official and the matter is one that requires putting to the question and the evidence (for the principal) offender. Such as illegally obtained property and the weapons used, is very clear, (and the person involved insists on aiding the guilty person and hiding the offence and) does not make an avowal, and a file is set up for this [person] and an interrogation under torture is carried out according to the law, [the official or clerk] will not be punished if [this proceeding] happens to lead to death.

**Article 397. Prolongation of Imprisonment.**

When the circumstances and [nature of the] offence of a prisoner have been determined clearly, (and in the Capital) the Three Judicial Offices, (or, outside the Capital) the governor-general or the governor, has reviewed the record [and determined] that there is no injustice, and otherwise there is no matter [that needed] to be investigated ([whose investigation] has not been completed, if the punishment to which [the prisoner] is subject is beating with the light or heavy bamboo, penal servitude, exile, or death), and it must be executed, there is a delay of three days in which to do so [to inflict beating or death]. (When in the case of penal servitude or exile) there must be deportation, the beginning of the deportation must be within ten days. If after the time-limit has expired the sentence is not executed, or the deportation is not commenced, if the official or clerk delays for three days, the penalty will be 20 strokes of the light bamboo. For every three [additional] days, add one degree. The penalty is limited to 60 strokes of the heavy bamboo. If, because of (exceeding the time-limit, and not executing the sentence or deporting [the offender]), the incarceration is prolonged so that death results, if the prisoner was under a death sentence, the punishment is 60 strokes of the heavy bamboo. If his sentence was exile, the punishment is 80 strokes, if it was penal servitude the punishment is 100 strokes, if it was strokes with the heavy bamboo or below, the punishment is 60 strokes of the heavy bamboo and penal servitude of one year. (According to the statutes, only those who are incarcerated for serious offences are held in prison for delay [as in 'sentenced to strangulation with delay'.])

Article 398. *Abuse of and Cruelty to Prisoners.*

Every jail guard who (*arbitrarily and*) without grounds within the jail is abusive and cruel and strikes and injures a prisoner will be sentenced on the basis of injuring during an ordinary affray [Art. 302]. (*Investigate the seriousness of the injury and then fix the penalty.*) If he reduces (*what the government gives to the prisoners in the way of*) clothing and food, calculate (*the things that are withheld*) as illegally obtained property and sentence on the basis of the supervisor or guardian himself stealing [Art. 264]. If as a result (*of striking and injuring or reducing supplies*) death results, (*then it does not matter if the prisoner was sentenced to death. It is not proper that he should die* [in this way]. Sentence to) strangulation (*with delay*). If the warder or clerk in charge of the prison or the warden knows and does not report it, he receives the same penalty. If death results, reduce one degree. (*If they do not know, sentence on the basis of doing that which ought not to be done* [Art. 386].)

Article 399. *Giving Prisoners Knives to [Use to] Escape.*

1. Every jail guard who gives a prisoner a knife or other thing (*such as poison*) which (*enables a person*) to kill himself or escape from his fetters and handcuffs will receive 100 strokes of the heavy bamboo. If as a result the prisoner runs away or (*in the prison*) injures himself or another, then the punishment is 60 strokes of the heavy bamboo and penal servitude of one year. If (*it results*) that the prisoner (*in the jail*) kills himself, sentence to 80 strokes of the heavy bamboo and penal servitude of two years. If it comes about that the prisoner has used violence in the prison (*and runs away*), or kills another (*in the prison*), sentence to strangulation (*with delay*). In the case of the prisoner (*who escapes or because of violence in the prison runs away, if before the sentence was to be executed, the jail guard*) himself apprehends [the prisoner], or someone else apprehends him, or the prisoner dies or turns himself in, in each case reduce the penalty one degree.

2. If an ordinary person (*not a jail guard*) gives a prisoner an object that can aid escape, or a son or son's son gives [such a thing] to (*an imprisoned*) parent or paternal grandparent, or a slave or a hired servant gives it to (*an imprisoned*) master, each will receive a penalty reduced from that of (*the jail guard*) one degree.

3. If the warders, or clerks in charge of the prison, or the warden know

[of the matter] and do not report it, they will receive the same penalty. If this amounts to death, reduce one degree.

4. If (*the jail guard, an ordinary person, the warden, the warders, or clerks in charge of the prison*) receive consideration, calculate the amount of the illegally obtained property and sentence on the basis of [receiving consideration] and perverting the law, awarding the heavier penalty [Art. 344]. (*If the sentence for obtaining property illegally is heavier, sentence on that basis, if it is lighter, sentence to the penalty for the act itself* [i.e. the penalties in the preceding paragraph].)

5. If the jail guard fails to take roll-call (*and be alert*) and the prisoner commits suicide (*without there having been any delivery to him of a tool that could cause death*), the jail guard receives 60 strokes of the heavy bamboo. The warders or clerk in charge of the prison will each receive 50 strokes of the light bamboo. The warden will receive 40 strokes of the light bamboo.

Article 400. *Guardians Who Teach Prisoners How to Contradict [their Statements] and Make Contrary Ones.*

(*Contradict* [their statements] means to retract them.)

1. Every warder or clerk in charge of the prison or jailer who teaches a prisoner to contradict his statements (*in a completed case*) so as to change and confuse the facts in a matter (*in which the interrogations have taken place and the decision has been made*), or who transmits [the prisoner's] words (*to outsiders enabling the prisoner to work with others*) so that there is an increase (*in* [the punishment] *of others*) or a decrease (*in* [the prisoner's] *own*) penalty, will be sentenced on the basis of intentionally decreasing or increasing the penalty [Art. 409]. If an outsider offends (*by giving instruction, or serving as intermediary so as to increase or decrease* [the sentences]), give him a penalty reduced (*from that of the guardian*) one degree.

2. If (*a warder, clerk in charge of the prison, or jail guard*) permits an outsider to enter the prison or (*deliver communications to or from the offender*), transmitting information to him, without leading to increase or decrease [in the penalty], sentence to 50 strokes of the light bamboo.

3. If (*the warder, clerk in charge of the prison, jail guard, or outsider*) receives consideration, calculate the amount of illegally obtained property (*he has received*) and sentence on the basis of [receiving consideration] and perverting the law according to the heavier penalty [Art. 344].

Article 401. Prisoners' Food and Clothing.

1. When prisoners (*do not have households to which they belong*), and it is necessary to request [a superior] that they be given clothing and food, (*or when they are sick, and there must be a request [to a superior] that they be given*) medical treatment and drugs, and [in either case] such a request is not made, or if they fall (*seriously*) ill so that it is necessary to remove fetters and handcuffs (*except in the case of a death penalty when fetters and handcuffs are not removed, but in the other cases*) and no (*request*) is made that they be removed, or (*in the case of those [ill prisoners who are] sentenced to beating with the light bamboo*) when it is necessary to release them under security and no (*request*) is made for [release under] security; (*or in the case of an illness which is becoming dangerous or critically disabling*) so that the family members must be permitted to come in and visit them but no (*request is made*) for permission [from a higher authority], (*in the above cases, although the matter is not under the direct control of the warder or clerk in charge of the prison or the jail guard, if he does not make the request of the higher authority*), the warder in charge of the prison or the jail guard will receive 50 strokes of the light bamboo. If death results, if the prisoner is under a death sentence, sentence to 60 strokes of the heavy bamboo. If he is sentenced to exile, sentence to 80 strokes of the heavy bamboo. If he is sentenced to penal servitude, sentence to 100 strokes of the heavy bamboo. If he is sentenced to strokes of the heavy bamboo or below, sentence to 60 strokes of the heavy bamboo and penal servitude of one year. If the warden knows and does not report, he will receive the same penalty (*as the warders or clerks in charge of the prison or the jail guards*).

2. If (*the warder*) has already petitioned the superior authority (*and the superior officials or clerks do not immediately act on [the petition], for one day's [delay] punish with 10 strokes of the light bamboo. For each additional day, add one degree. The punishment is limited to 40 strokes of the light bamboo. If death results, if the prisoner was under a death sentence, sentence to 60 strokes of the heavy bamboo. If he was sentenced to exile, sentence to 80 strokes of the heavy bamboo. If he was sentenced to penal servitude, sentence to 100 strokes of the heavy bamboo. If the sentence was heavy bamboo or below, sentence to 60 strokes of the heavy bamboo and penal servitude of one year.*)

Article 402. When Meritorious Officials are Incarcerated, Their Relatives May Visit Them.

When meritorious officials or (*civil or military*) officials of the fifth rank or above commit an offence and must be incarcerated, their relatives (*within the degrees of mourning*) may visit them. If (*the offence*) entails a penalty of penal servitude or exile (*and they must be deported*), the relatives are permitted to accompany them. If [the official] is incarcerated or (*if it is a penalty of penal servitude or exile and he has already*) arrived at the place of sentence, or is *en route*, and gets sick and dies, then in the Capital the official who conducted the original proceeding, and outside the official who has jurisdiction, according to the place, will prepare a report on the cause of death (*in prison, at the place of exile, or en route*). He will send someone to conduct the relatives (*who have visited or accompanied [the offender]*) to the 'watchtower'<sup>11</sup> of the palace and request the Emperor that they be set free. A violation of this will result in a sentence to 60 strokes of the heavy bamboo.

Article 403. One Who is Condemned to Death Who Orders Others to Kill Him.

1. When a prisoner who has committed an offence punishable with death has admitted his offence, and the prisoner (*fearing the death penalty*) orders relatives by blood or marriage, old subordinates, or friends to take his life, or orders (*relatives [by blood or marriage], old subordinates, or friends*) to hire someone else to kill him, the relative, [subordinate], friend or (*hired*) person who has used his hand [in the killing] will each be sentenced for the killing (*under the law for relatives [striking and killing, Arts. 315-322] or ordinary persons [killing] in an affray [Art. 290] reduced two degrees. If the prisoner, although he has himself admitted his offence, has not ordered (a relative or friend) to kill him, or, although he has ordered (his relative, [subordinate], or friend) to kill him, he has not confessed, (and the relative, [subordinate], or friend) kills him without authority (himself), or hires another to kill him (if [the prisoner] does not order him to kill him, he still believes there may be good fortune in his life. If he has not confessed, then it may be there is no offence for which he may be sentenced to die)*), the relative, [subordinate,] friend or [the hired

<sup>11</sup> This may mean simply that he will send someone to accompany them to the palace to petition.

person] who has done [the killing] will each be punished on the basis of (*relatives or ordinary persons*) killing or injuring in an affray [Arts. 290]. (*There is no reduction of degree.*)

2. If although (*the prisoner who is sentenced to death*) has already confessed, his children or son's children for their paternal grandparents or parents, or the slaves or hired servants for the household head (*who, following his orders, kill him themselves or hire another to do it*), all will be beheaded (*with delay. The hired person [killer] will be sentenced according to the article applicable to the killing he has committed reduced two degrees.*)

#### Article 404. *Old Persons and Youths Are Not Put to the Question.*

In the case of all persons who are within the eight [categories of persons] whose cases are entitled to consideration [Art. 3] (*those for whom according to the principles of the Rites it is appropriate to grant indulgence*), or those of 70 or above (*those for whom old age makes it appropriate to be sympathetic*), or those of 15 or under (*those for whom youth makes it appropriate to be merciful*), or those who are seriously disabled (*infirmity makes it appropriate to be compassionate, if an offence is committed, the officials should not use torture*) put them to the question. In all cases set the penalty in accordance with the evidence from others. Any violation will be punished in accordance with the law of intentionally or mistakenly increasing the penalty [erroneously] [Art. 409]. (*For intentionally increasing the penalty [erroneously], inflict the whole penalty. For mistakenly increasing the penalty [erroneously], reduce three degrees.*) As for those whom the law permits reciprocally to hide each other's offences (*because such concealment is an aspect of close relationship*) [Art. 32], as well as old people 80 or above, young people 10 or below, those who are critically disabled [Art. 22] (*because they can rely on escaping punishment*), none may be ordered to give evidence. For any violation of this, sentence to 50 strokes of the light bamboo. (*In all cases take the clerk as the principal, and the penalty will be set [for others] by being diminished proportionately.*)

#### Article 405. *Suspending the Questioning of Prisoners until there is Confrontation.*

1. Whenever an investigating official has interrogated a prisoner in (*that jurisdiction*), and when it appears that there is in the (*same*) case an

accomplice (*to the offence*) who is in another jurisdiction, ([*the official who has jurisdiction*] over the offender) will detain the offender to await confrontation (*the arrival of the other person*) so that they can be (*interrogated*) in confrontation with each other. (*Although* [the officials] *are mutually*) separate in their official duties and are not in the same chain of command, they are both authorized to deal with each other directly (*in writing*) to have [the other person] brought [to the place where the interrogation is taking place]. (*The official in the other jurisdiction*) will, within three days after the request arrives, (*take the person whose delivery has been requested for questioning and*) send him. If [the official] exceeds the period and does not send [the individual], for one day sentence him to 20 strokes of the light bamboo. For each [additional] day, add one degree. The punishment is limited to 60 strokes of the heavy bamboo. (*The one in charge of directing the criminal investigation and interrogation cannot [merely] suspend the proceedings because [the requested person] was not sent.*) He will send [the documents] to the superior office of that official (*in the other place*) to request that the offence of (*violation of the time-limit*) be dealt with (*and order that the requested offender be sent*) and transported [to the place from which the request was made].

2. If it is necessary in a case to question by confrontation accomplices who have been imprisoned and are being interrogated in another department or district where the case has come to light (*this is a case where all must be questioned*), then have the one guilty of the less serious offence (*transferred*) to be questioned with the prisoner guilty of the more serious offence. (*If the prisoners' offences are of the same degree, then have*) the smaller number of prisoners transferred to the place where the larger number are located. If the number of prisoners is the same, have the prisoner who was discovered later transferred to the place where the one who was discovered first is being interrogated. If the two districts are more than 300 *li* apart (*and it is to be feared that in the transfer to and from, unexpected difficulties may be encountered*), then each case will be adjudged in the place where it came to light (*and* [the officials] *will exchange documents to inform each other* [what has happened].) For those who violate [this provision], (*the prisoner who is guilty of the minor offence is not sent to the place of [trial of] the one guilty of the more serious offence, the few [prisoners] are not sent to the place where there are more, the one whose offence is discovered subsequently is not sent to the place of the one whose offence was discovered first, or those who are distant are not handled separately*), the penalty is 50 strokes of the light bamboo. If [an official] violates the rule (*and, contrary* [to it]) sends the prisoner guilty of the more serious offence to the place

of the offender guilty of the lighter offence, or sends the many prisoners to the place of interrogation of the few prisoners, the official [having jurisdiction] of that place must immediately receive and question them. (*They may not be reciprocally sent back and forth.*) He will report to the superior of the official (*of the other jurisdiction*) who will enquire into his subordinate's transferring prisoners contrary to law and award a punishment of (50 strokes of the light bamboo). If the prisoner arrives (*in the jurisdiction of the proper official*) and is not received, for one day [of delay punish with] 20 strokes of the light bamboo. For each [additional] day, add one degree. The punishment is limited to 60 strokes of the heavy bamboo.

**Article 406.** *Interrogating in Accordance with the [Facts Alleged] in the Complaint.*

1. In every interrogation it is necessary to carry out the investigation in accordance with the [facts alleged in the] complaint (*made by the accuser*). If, apart from (*this*) complaint [the official] seeks information about other instances and increases the number of offences (*of which the offender is accused*), sentence on the basis of intentionally increasing another's penalty [Art. 409]. (*Sentence either on the basis of the entire punishment, or on the basis of the increase of the lesser offence into a more serious one.*) If official colleagues in the same office have not signed the file, they will not be punished.

2. If, because of (*facts and circumstances*) which were alleged in (*the original*) complaint, or because (*the law*) requires arrest and investigation and if, as a result (*of the investigation and arrest*), other offences (*of the accused*) are discovered, and it is appropriate that these matters should be adjudged (*this is not the same as increasing the number of offences*), this is not within the rule (*of intentionally increasing someone's penalty [erroneously] [Art. 409]*).

**Article 407.** *When the Complainant's Case is Concluded and He is not Released.*

In every case of a proceeding based on an accusation, when the facts have been obtained at the interrogation and the accused has admitted [his offence]

and submitted to punishment, and there is no other reason for the complainant to wait for another confrontation, (*the official in charge of the interrogation*) will release him immediately. If there is no (*matter requiring confrontation as a*) reason, and he is held for three days and not released, punish [the official] with 20 strokes of the light bamboo. For every [additional] three days, add one degree. The punishment is limited to 40 strokes of the light bamboo.

**Article 408.** *Prisoners Who Falsely Accuse Law-abiding Persons.*

1. All prisoners who falsely accuse a law-abiding person will be punished on the basis of making a false accusation [Art. 336] (*increased three degrees*). If [the penalty for the accuser's] own offence is more serious (*than the increased penalty for the false accusation*), sentence in accord with (*the original*) heavier (*one*).

2. If (*the prisoner himself does not have the intention of accusing another falsely*), but the official or clerk in interrogating the prisoner uses unlawful torture with the intention of instructing or ordering him to make a false accusation against a law-abiding person, award a penalty based on the (*full*) penalty for intentionally increasing the punishment of others [Art. 409].

3. If (*the officials*) who have been attempting to collect taxes in money and supplies (*that are owing*) compel (*the families that owe* [the taxes]) falsely to state that a law-abiding person should pay for them, calculate the amount of property [thereafter] collected [from the law-abiding person] contrary to law, and sentence for illegally obtained property [Art. 345]. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years because* [the official] *has not taken the illegally obtained property for himself*). The property is returned to the owner (*the one who has paid in place of the real debtor*).

4. If a (*law-abiding*) person is falsely (*accused*) by (*a prisoner*), and is, without good cause, detained for three days and not released (*and returned*), the (*official or clerk*) will be sentenced to 20 strokes of the light bamboo. For every [additional] three days, add one degree. The punishment is limited to 60 strokes of the heavy bamboo.

5. If, while (*the official*) is interrogating a prisoner, there are witnesses (*who have a bias*) and do not speak truthfully but intentionally give false evidence, or if a person outside Chinese civilization commits an offence, and an interpreter translates (*and having a biased interest*) does not respond correctly, so that the sentence for the offence is decreased or increased, the

witness will receive the offender's penalty reduced two degrees. (If the witness does not speak the truth so that the offender is acquitted, he will be punished with the penalty of the offender reduced two degrees. If [the witness] testified in such a way as to increase or decrease the penalty, [sentence him to] the increase or decrease in the offender's penalty, reduced two degrees.) Interpreters will receive the same penalty. (This means that when a person outside Chinese civilization commits an offence, and the interpreter aids him by mistranslating, so that he completely evades punishment, the interpreter will receive the entire penalty that the offender was to receive. If the interpreter increases or decreases the offence of a person outside Chinese civilization, then sentence the interpreter to the increase or decrease of the penalty. This means that if the person outside Chinese civilization admits to an offence punishable with 60 strokes of the heavy bamboo, and the interpreter in translating increases it to make it an offence punishable with 100 strokes of the heavy bamboo, then sentence the interpreter to 40 strokes of the heavy bamboo. Again if the person outside Chinese civilization admits to an offence penalized with 100 strokes of the heavy bamboo, and the interpreter in translating decreases it to make it an offence punishable with 50 strokes of the light bamboo, then sentence the interpreter to 50 strokes of the light bamboo, etc.)

## CHAPTER 25

*Judgments and Prisoners: 2*Article 409. *An Official Who Decreases or Increases Penalties*  
[Erroneously]

1. Whenever an official intentionally decreases or increases a person's penalty [erroneously], if it is a complete acquittal or a complete conviction (*penal servitude is not converted into strokes of the heavy bamboo, and exile is not converted into penal servitude*), sentence on the basis of the whole penalty. (This means that if, for example, because the official or clerk has received consideration from another or used extra-legal torture, he intentionally increases a punishment or intentionally decreases it, [in that case] punish the official or clerk on the basis of the entire punishment.)

2. If (the [erroneous] increase does not consist of a complete [conviction] but) where one adds to a light punishment so that it is increased and made heavier (or if there is not a complete acquittal, but) a serious punishment is reduced in degree and made light, sentence for the increase or decrease. If this amounts to death, punish on the basis of the death penalty. (If a light punishment is increased and made serious and there is a penalty awarded which includes penal servitude, each degree of penal servitude is converted into 20 strokes of the heavy bamboo. If the penalty is increased to exile, each degree of exile is converted into half a year of penal servitude. If the punishment is increased to death and the death penalty has already been carried out, sentence [the offender] to death. If it is a case of decreasing a heavy penalty and making it light, the punishment is also [computed in] the same way.)

3. If, in deciding a case, there is mistaken increase of a penalty, reduce [the penalty for intentional increase] three degrees in each case. If there is mistaken decrease, in each case reduce [the penalty for intentional decrease] five degrees. Charge the chief clerk as principal. Reduce the penalty of the chief officer from that of the clerk one degree. The penalty of the assistant official is reduced from that of the chief officer one degree. The penalty of the head official is reduced from that of the assistant official one degree. (Sentence on the basis of [the above discussed] reduction of three degrees or five degrees [for mistaken as opposed to intentional acts].)

4. If the [penalty] has not been executed or the prisoner has not been released, or he has been released and was apprehended again, or the prisoner dies, (*when there is an intentional or mistaken [erroneous] decrease or increase [of the penalty]*), in each case the penalty is reduced [from those set out above] one degree. (*In the case of this reduction of one degree as in the cases of the reductions of three and five degrees discussed above, first reduce and then calculate the conversion [as e.g. from penal servitude to strokes of the heavy bamboo] of the amount of the remaining punishment and award a penalty. Otherwise, the punishment for mistaken increase or mistaken decrease [based on the excess or deficiency] in strokes [of the heavy bamboo] or penal servitude would, contrary [to logic], be heavier than the complete acquittal or conviction.*)

[The Application of this Rule]<sup>12</sup>

[1] *Intentionally Increasing Strokes of the Light Bamboo to Penal Servitude.*

For example the original offence should have been punished with 10 strokes of the light bamboo, but [the official] intentionally increased it to 80 strokes of the heavy bamboo and two years of penal servitude. [All] three degrees of penal servitude are converted to 60 strokes of the heavy bamboo. [But] each [sentence of penal servitude] includes 100 strokes of the heavy bamboo. The total amount is 160 strokes, minus the 10 strokes of the light bamboo which the offender was supposed to receive. Punish the official and clerk with the rest: 150 strokes of the heavy bamboo. If [the prisoner's sentence] has not been executed, then reduce [the official's punishment] one degree to 70 strokes of the heavy bamboo and one and a half years of penal servitude. This means he will receive 140 strokes of the heavy bamboo, minus the 10 strokes of the light bamboo which the offender should receive. Punish [the official] with the remaining 130 strokes of the heavy bamboo. The remaining strokes will all be inflicted. Redemption is not permitted.

[2] *Intentionally Increasing a Punishment of Strokes of the Heavy Bamboo to Penal Servitude.*

For example, if the offence should be punished with 80 strokes of the heavy bamboo, but it is intentionally increased to 60 strokes of the heavy bamboo and one year of penal servitude, convert it to 120 strokes of the

heavy bamboo, and subtract the 80 strokes of the heavy bamboo which the offender should receive. The official and clerk should be punished with the remaining 40 strokes of the light bamboo. If [the prisoner's sentence] has not been executed, then reduce one degree to 100 strokes of the heavy bamboo. Subtract the penalty of 80 strokes of the heavy bamboo. [The official and clerk] should be punished with 20 strokes of the light bamboo.

[3] *Intentionally Increasing the Penalty from Strokes of the Heavy Bamboo to Exile.*

For example, the penalty for an offence is 80 strokes of the heavy bamboo; the penalty is intentionally increased to 100 strokes of the heavy bamboo and exile to 2500 *li*. Exile in the second degree is converted to [a penalty for the official of] one year of penal servitude. The three degrees of exile basically include five degrees of penal servitude which are converted to 200 strokes of the heavy bamboo and one year of penal servitude. From this subtract 80 strokes of the heavy bamboo which the offender should have received. The official and clerk should receive the remaining punishment of 120 strokes of the heavy bamboo and one year of penal servitude. If the penalty has not yet been executed, then [the penalty of the official] will be reduced one degree. This means that 100 strokes of the heavy bamboo and three years of penal servitude can be reduced to 200 strokes of the heavy bamboo. From this are subtracted the 80 strokes of the heavy bamboo which the offender should have received. [The official] should be punished [with the remaining punishment, that is] 120 strokes of the heavy bamboo.

[4] *Intentionally Increasing the Penalty from a Lower Degree of Penal Servitude to a Higher Degree of Penal Servitude.*

For example, the penalty of an offender is 60 strokes of the heavy bamboo and one year of penal servitude. The penalty is intentionally increased to 90 strokes of the heavy bamboo and two and a half years of penal servitude. The fourth degree of penal servitude is converted to 80 strokes of the heavy bamboo. If from this is subtracted the original penalty of the offender of one year of penal servitude, converted to 20 strokes of the heavy bamboo, the result is that the official and clerk should receive the remaining penalty of 60 strokes of the heavy bamboo. Because [the penalty was increased] from [one degree] of penal servitude [to another degree] of penal servitude, it is not necessary [to consider] the 100 strokes of the heavy bamboo which are [always] included in a sentence of penal servitude. Even if they are included, the punishment is the same. If the penalty has not yet been executed it will be reduced one degree to 80 strokes of the heavy bamboo and two years

<sup>12</sup> These rules are apparently part of the article and not comments or sub-statutes.

of penal servitude which will be converted to 60 strokes of the heavy bamboo minus 20 strokes of the heavy bamboo after reduction for the penalty for which the offender should be punished. [The official and clerk] should be punished with the remaining 40 strokes of the light bamboo.

[5] *Intentionally Increasing the Penalty from Penal Servitude to Exile.*

For example, the penalty of an offender is 70 strokes of the heavy bamboo and one and a half years of penal servitude. This is converted to 140 strokes of the heavy bamboo. The penalty is intentionally increased to exile to 2000 *li*. This is converted to half a year of penal servitude. The three degrees of exile basically include five degrees of penal servitude. [Thus the whole penalty is] converted to 200 strokes of the heavy bamboo and a half year of penal servitude. From this, subtract the 140 strokes of the heavy bamboo to which the offender should be sentenced. The official and clerk should be sentenced to the remaining 60 strokes of the heavy bamboo and half a year of penal servitude. If the penalty has not yet been executed, then reduce the penalty one degree. That is, to 100 strokes of the heavy bamboo and three years of penal servitude. This converts to 200 strokes of the heavy bamboo. From this are subtracted the 140 strokes of the heavy bamboo—the sentence which the offender should be awarded. [The official and clerk] should be punished with the remaining 60 strokes of the heavy bamboo.

[6] *Intentionally Increasing the Penalty from Near Exile to Far Exile.*

For example, the penalty of an offender is 100 strokes of the heavy bamboo and exile to 2000 *li*. This is converted to half a year of penal servitude. [The official] intentionally increases the penalty to exile to 3000 *li*. This will be converted to one and a half years of penal servitude. From this is subtracted the half year of penal servitude to which the offender should properly have been sentenced. The official and clerk should be awarded the penalty of the remaining one year of penal servitude. Because [the penalty was increased] from one degree of exile to another degree of exile, it is not necessary to include the five degrees of penal servitude that convert to 200 strokes of the heavy bamboo. If the penalty has not yet been executed, [the penalty of the official and clerk] will be reduced to no punishment. When the [proper] penalty is decreased from far exile to near exile, the punishment follows this rule.

[7] *Intentionally Increasing the Penalty from Strokes of the Light or Heavy Bamboo, Penal Servitude, or Exile to Death.*

If [the penalty] is increased to death, there is no rule for conversion. If the offender has been executed, impose the death penalty on [the official and

clerk]. If he has not been executed, or the prisoner dies [before he can be executed], the punishment is reduced one degree to exile to 3000 *li*. This includes five degrees of penal servitude and is converted to 200 strokes of the heavy bamboo and one and a half years of penal servitude. From this subtract the penalty which the offender should have received. Impose the remaining penalty on [the official and clerk].

[8] *Intentionally Decreasing the Penalty from Penal Servitude to Strokes of the Light Bamboo.*

For example, the penalty of an offender is 60 strokes of the heavy bamboo and one year of penal servitude. This is converted to 120 strokes of the heavy bamboo. It is intentionally decreased to 50 strokes of the light bamboo. Subtracting the penalty of 50 strokes of the light bamboo which the offender has been awarded, punish the official and clerk with the remaining 70 strokes of the heavy bamboo. If the offender has not been released, then reduce [the penalty] one degree, that is, to 100 strokes of the heavy bamboo. Subtract the 50 strokes of the light bamboo to which the offender has been sentenced. [The official and clerk] should be sentenced with the remainder of 50 strokes of the light bamboo.

[9] *Intentionally Decreasing the Penalty From Penal Servitude to Strokes of the Heavy Bamboo.*

For example, the penalty is 90 strokes of the heavy bamboo and two and a half years of penal servitude. This converts to 180 strokes of the heavy bamboo. It is intentionally decreased to 100 strokes of the heavy bamboo. Subtracting the penalty of 100 strokes of the heavy bamboo to which the offender has been sentenced, the official and clerk should be awarded the remaining penalty of 80 strokes of the heavy bamboo. If the offender has not been released, then reduce the punishment one degree to 80 strokes of the heavy bamboo and two years of penal servitude. This is converted to 160 strokes of the heavy bamboo. Subtracting 100 strokes of the heavy bamboo which the offender has been sentenced to, [the official and clerk] should be punished with the remaining 60 strokes of the heavy bamboo.

[10] *Intentionally Decreasing the Penalty From a Higher Degree of Penal Servitude to a Lower Degree of Penal Servitude.*

For example, the penalty is 100 strokes of the heavy bamboo and three years of penal servitude. This converts to 200 strokes of the heavy bamboo. It is intentionally decreased to 70 strokes of the heavy bamboo and one and one half years of penal servitude. This converts to 140 strokes of the heavy

bamboo. Subtracting the 140 strokes of the heavy bamboo which the offender has been sentenced to, the official and clerk should be sentenced to the remaining 60 strokes of the heavy bamboo. If the offender has not been released, then reduce his penalty one degree. That is, to 90 strokes of the heavy bamboo and two and a half years of penal servitude. This converts to 180 strokes of the heavy bamboo. Subtracting 140 strokes of the heavy bamboo which the offender has been sentenced to, [the official and clerk] should be punished with 40 strokes of the light bamboo.

[11] *Intentionally Decreasing the Penalty From Exile to Strokes of the Light Bamboo.*

For example, the penalty is 100 strokes of the heavy bamboo and exile to 2000 *li*. This converts to half a year of penal servitude. It is intentionally decreased to 40 strokes of the light bamboo. The three degrees of exile basically include the five degrees of penal servitude. This converts to 200 strokes of the heavy bamboo and half a year of penal servitude. Subtracting the 40 strokes of the light bamboo already awarded, impose a penalty of the remaining 160 strokes of the heavy bamboo and half a year of penal servitude on the official and clerk. If the offender has not been released, then reduce the penalty one degree. That is, to 100 strokes of the heavy bamboo and three years of penal servitude. This converts to 200 strokes of the heavy bamboo. Subtract 40 strokes of the light bamboo to which the offender has been sentenced. [The official and clerk] should be sentenced to the remaining 160 strokes of the heavy bamboo. If the penalty of exile is decreased to strokes of the heavy bamboo, the punishment should be awarded in accordance with this [rule].

[12] *Intentionally Decreasing the Penalty From Exile to Penal Servitude.*

For example, the penalty is 100 strokes of the heavy bamboo and exile to 3000 *li*. This converts to one and a half years of penal servitude. It is intentionally decreased to 80 strokes of the heavy bamboo and two years of penal servitude. This converts to 160 strokes of the heavy bamboo. The three degrees of exile basically include the five degrees of penal servitude. This converts to 200 strokes of the heavy bamboo and one and a half years of penal servitude. Subtracting the 160 strokes of the heavy bamboo to which the offender has been sentenced, the official and clerk should be sentenced to the remaining 40 strokes of the light bamboo and one and a half years of penal servitude. If the offender has not been released, then reduce the penalty one degree, that is, to 100 strokes of the heavy bamboo and three years of

penal servitude. This converts to 160 strokes of the heavy bamboo. [The official and clerk] should be sentenced to the remaining 40 strokes of the light bamboo.

[13] *Intentionally Decreasing the Penalty From Death to Strokes of the Light or Heavy Bamboo, or Penal Servitude, or Exile.*

If the offender has been released, sentence [the official and clerk] to death. If [the offender] has not been released, or has been released and seized again, or has died, first reduce the penalty one degree, and then convert according to the law.

[14] *Mistakenly Increasing the Penalty From Strokes of the Light Bamboo to Strokes of the Heavy Bamboo.*

For example, the penalty is 30 strokes of the light bamboo. This is mistakenly increased to 100 strokes of the heavy bamboo. [In computing the penalty for] mistakenly increasing the penalty, reduce three degrees [from the penalty for intentional increase]. Sentence [the responsible person] to 70 strokes of the heavy bamboo, subtracting the 30 strokes of the light bamboo which the offender should be sentenced to. The clerk in charge is the principal. He should be punished with the remaining 40 strokes of the light bamboo. If the sentence has not been executed, reduce still one degree more. The clerk in charge who is the principal should be sentenced to 30 strokes of the light bamboo.

[15] *Mistakenly Increasing the Penalty From Strokes of the Light Bamboo to Penal Servitude.*

For example, the penalty is 10 strokes of the light bamboo. This is mistakenly increased to 100 strokes of the heavy bamboo and three years of penal servitude. For mistakenly increasing a penalty, reduce [the penalty for intentional increase] three degrees. The one responsible should be punished with 70 strokes of the heavy bamboo and one and a half years of penal servitude. This converts to 140 strokes of the heavy bamboo. Subtracting 10 strokes of the light bamboo which the offender should have been sentenced to, the clerk in charge is considered as the principal who should be sentenced to the remaining 130 strokes of the heavy bamboo. If the penalty has not been executed, reduce still one degree more to 60 strokes of the heavy bamboo and one year of penal servitude. This converts to 120 strokes of the heavy bamboo. Subtracting the 10 strokes of the light bamboo to which the offender should have been sentenced, the clerk in charge who is the principal should be sentenced to 110 strokes of

the heavy bamboo. [The punishment for mistakenly] increasing the penalty from strokes of the heavy bamboo to penal servitude follows this [rule].

[16] *Mistakenly Increasing the Penalty From Strokes of the Heavy Bamboo to Exile.*

For example, the penalty is 100 strokes of the heavy bamboo. It is mistakenly [non-intentionally] increased to 100 strokes of the heavy bamboo and exile to 3000 *li*. The penalty for mistaken [non-intentional] increase is reduced three degrees [from the penalty for intentional increase] to 80 strokes of the heavy bamboo and two years of penal servitude. This converts to 160 strokes of the heavy bamboo. Subtracting the 100 strokes to which the offender should be sentenced, the clerk in charge who is taken as the principal should be sentenced to the remaining 60 strokes of the heavy bamboo. If the penalty has not been executed, then reduce still one degree more to 70 strokes of the heavy bamboo and one and a half years of penal servitude. This converts to 140 strokes of the heavy bamboo. Subtracting the 100 strokes of the heavy bamboo which the offender should be sentenced to, sentence the clerk in charge who is principal to 40 strokes of the light bamboo.

[17] *Mistakenly Increasing a Lower Degree of Penal Servitude to a Higher Degree.*

For example, the penalty is 60 strokes of the heavy bamboo and one year of penal servitude. This converts to 20 strokes of the heavy bamboo. It is mistakenly increased to 100 strokes of the heavy bamboo and three years of penal servitude. [The penalty for] mistakenly [non-intentional] increasing [a punishment] is reduced three degrees [from the penalty for intentional increase]. That is, to 70 strokes of the heavy bamboo and one and a half years of penal servitude. The two degrees of penal servitude convert to 40 strokes of the heavy bamboo. Subtracting 20 strokes of the heavy bamboo, the clerk in charge as principal should be sentenced to the remaining 20 strokes of the light bamboo. The chief officer receives that sentence reduced one degree: 10 strokes of the light bamboo. The sentence of the assistant official is reduced to no punishment. If the penalty has not been executed, reduce still one degree more, to 60 strokes of the heavy bamboo and one year of penal servitude. This is equal to the original penalty. [In this case] even the clerk in charge will also receive no punishment. In all the cases of mistakenly [non intentionally increasing] the penalty from [a lighter degree of] penal servitude to [a heavier degree of] penal servitude, or from penal servitude to exile, [the penalty received for increasing a penalty] does not include 100 strokes of the heavy bamboo.

[18] *Mistakenly Increasing the Penalty From Penal Servitude to Exile.*

For example, the penalty is 60 strokes of the heavy bamboo and one year of penal servitude. This converts to 20 strokes of the heavy bamboo. This is mistakenly [non-intentionally] increased to 100 strokes of the heavy bamboo and exile to 3000 *li*. For a mistaken increase, reduce the penalty [for intentional increase] three degrees, to 80 strokes of the heavy bamboo and two years of penal servitude. This converts to 60 strokes of the heavy bamboo. Subtracting 20 strokes of the heavy bamboo to which the offender should have been sentenced, a clerk in charge as the principal will be sentenced to 40 strokes of the light bamboo. If the sentence has not been executed, then reduce still one degree more, that is to 70 strokes of the heavy bamboo and one and one-half years of penal servitude. This converts to 40 strokes of the heavy bamboo. Subtracting 20 strokes of heavy bamboo, the punishment to which the offender should have been sentenced, the clerk in charge who is principal should be sentenced to 20 strokes of the light bamboo.

[19] *Mistakenly Increasing the Penalty From Strokes of the Light or Heavy Bamboo, Penal Servitude, or Exile to Death.*

If the offender has been executed, award the penalty [for intentional increase] reduced three degrees. If the offender has not been executed or has died [from other causes], the punishment for mistakenly increasing will be reduced still one degree more. The clerk in charge is the principal. When the reduction is to penal servitude, convert [the penal servitude] to strokes of the heavy bamboo and subtract.

[20] *Mistakenly Decreasing the Penalty From Strokes of the Heavy Bamboo to Strokes of the Light Bamboo.*

For example, the penalty is 100 strokes of the heavy bamboo. This is mistakenly decreased to 30 strokes of the light bamboo. The penalty reduction for mistakenly decreasing is reduced five degrees [from the penalty for intentional decrease]. Thus it will be 50 strokes of the light bamboo. Subtracting 30 strokes of the light bamboo, the penalty to which the offender has been sentenced, the clerk in charge, as principal, will be punished with the remaining 20 strokes of the light bamboo. If the offender has not been released, then reduce still one degree more. That is, to 40 strokes of the light bamboo. Subtracting 30 strokes of the light bamboo, the penalty to which the offender has been sentenced, the clerk in charge, who is the principal, will receive 10 strokes of the light bamboo.

[21] *Mistakenly Decreasing the Penalty from Penal Servitude to Strokes of the Light Bamboo.*

For example, the penalty is 70 strokes of the heavy bamboo and one and a half years of penal servitude. This is mistakenly decreased to 20 strokes of the light bamboo. The penalty for mistakenly decreasing is reduced five degrees [from the penalty for intentional decrease]. Thus the penalty is 70 strokes of the heavy bamboo, minus 20 strokes of the light bamboo to which the offender has been sentenced. The clerk in charge is the principal and should be punished with the remaining 50 strokes of the light bamboo. If the offender has not been released, reduce still one degree more. That is, to 60 strokes of the heavy bamboo. Subtracting the 20 strokes to which the offender has been sentenced, the clerk in charge who is the principal is punishable with 40 strokes of the light bamboo. The penalty for mistakenly decreasing a punishment from penal servitude to strokes of the heavy bamboo follows this rule.

[22] *Mistakenly Decreasing the Penalty From Exile to Strokes of the Light Bamboo.*

For example, the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. This is mistakenly decreased to 10 strokes of the light bamboo. The penalty for mistakenly decreasing is reduced five degrees [from that for intentional decrease]. That is, to 60 strokes of the heavy bamboo and one year of penal servitude. This converts to 120 strokes of the heavy bamboo. Subtracting the 10 strokes of the light bamboo to which the offender has been sentenced, the clerk in charge, who is the principal, should be sentenced to the remaining 110 strokes of the heavy bamboo. If the offender has not been released, then reduce still one degree more. That is, to 100 strokes of the heavy bamboo. Subtracting the 10 strokes of the light bamboo to which the offender should have been sentenced, punish the clerk in charge as the principal, with 90 strokes of the heavy bamboo.

[23] *Mistakenly Decreasing the Penalty From Exile to Penal Servitude.*

For example, the penalty is 100 strokes of the heavy bamboo and exile to 3000 li. This is mistakenly decreased to 60 strokes of the heavy bamboo and one year of penal servitude. The penalty for mistakenly decreasing is reduced five degrees [from the penalty for intentional decrease]. That is, to 60 strokes of the heavy bamboo and one year of penal servitude. The clerk in charge, as the principal, will have his penalty reduced to no punishment.

[24] *Mistakenly Decreasing the Penalty From Death to Exile, Penal Servitude, or Strokes of the Heavy or Light Bamboo.*

If the offender has been released, [the official] has his penalty reduced five degrees [from that for intentional decrease]. If [the offender] has not been released, or has been released and seized again, or the prisoner dies, then reduce still one degree more. The punishment of penal servitude is also converted to strokes of the heavy bamboo and subtraction is made.

(Note: In the provisions on intentionally increasing from strokes of the light bamboo to penal servitude, the official and clerk should be punished with the remaining 130 strokes of the heavy bamboo. The remaining punishment must be completely executed. It may not be redeemed by a monetary payment. 'Completely executed' means if it is not above the maximum number of strokes of the heavy bamboo, then all of the strokes of the heavy bamboo must be inflicted. In each case of increase from strokes of the light or the heavy bamboo to penal servitude, or decrease from penal servitude to strokes of the light or the heavy bamboo, or increase or decrease from one degree of penal servitude to another degree of penal servitude, each degree of penal servitude converts to 20 strokes of the heavy bamboo. If the remaining strokes of the heavy bamboo are more than 100 strokes, then reduce the strokes of the heavy bamboo and add degrees of penal servitude. For example, if there remain 110 strokes of the heavy bamboo, this punishment should become 50 strokes of the light bamboo and one year of penal servitude; a remaining 120 strokes of the heavy bamboo should become 60 strokes of the heavy bamboo and one year of penal servitude; a remaining 130 strokes of the heavy bamboo should become 60 strokes of the heavy bamboo and one and a half years of penal servitude; a remaining 140 strokes of the heavy bamboo should become 70 strokes of the heavy bamboo and one and a half years of penal servitude, etc. If there is an increase from strokes of the light bamboo or the heavy bamboo, or penal servitude to exile, or a decrease from exile to strokes of the light or the heavy bamboo, or penal servitude, or an increase or decrease in the degree of exile or penal servitude, each degree of exile converts to half a year of penal servitude. For example, if the penalty is 10 strokes of the light bamboo, and it is intentionally increased to exile to 2500 li, the second degree of exile, this converts to one year of penal servitude. The three degrees of exile basically include the five degrees of penal servitude. Subtracting the penalty of 10 strokes of the light bamboo, [the one responsible] should be punished with the remaining 90 strokes of the heavy bamboo and four years of penal servitude. If the punishment is exile to 3000 li and it is intentionally decreased to 20 strokes of the light

bamboo, this is the third degree of exile. It converts to penal servitude of one and a half years. The three degrees of exile basically include the five degrees of penal servitude. Subtracting the penalty of 20 strokes of the light bamboo [the responsible person] should be punished with the remaining 80 strokes of the heavy bamboo and four and a half years of penal servitude, etc. Therefore it is called 'completely executed'; it cannot be redeemed by a monetary payment. In sum, the conversion to penal servitude may not amount to five years; the conversion to strokes of the heavy bamboo may not exceed 100 strokes.)

#### Article 410. *Exposing Injustices and Misapplication of the Law.*

1. Every reviewing yamen, whether within the capital or outside, which is exposing injustices and misapplication of the law must write down all of the traces [evidence] of wrong suffered (*by the prisoner*). The facts must be reported by memorial under seal to the Emperor. If the official delegated to do so pursues the investigation (*of the injustices*) and finds them to have occurred, the one who was wrongfully accused will have his sentence rectified. (*The erroneous*) punishment will be inflicted on the complainant (*the one who made the false accusation* [that resulted in the erroneous sentence]) and the original investigating official and clerk (*will be punished on the basis of intentionally or mistakenly increasing* [a penalty, Art. 409]).

2. If in the case of the punishment (*of the prisoner*) there is (*basically*) no injustice and misapplication of the law, the one who made the misleading exposition [of injustice and misapplication of the law] will be punished with 100 strokes of the heavy bamboo and penal servitude of three years. (*Where the text says 'misleading', it refers to the original complainant and the original investigating official having been wrongly accused.*) If the penalty for the offence which was the subject of the false accusation [misapplication of the law and error] was serious (*more than 100 strokes of the heavy bamboo and penal servitude of three years*), sentence on the basis of intentionally decreasing or increasing a penalty [Art. 409]. If the person whose (*punishment*) is sought to be revised knows the circumstances, he will receive the same penalty (*as the one who made the misleading statements* [as to his original trial and punishment]. *If his original penalty was heavier* [than this penalty—the one set by reference to Art. 409], *then merely sentence according to the heavier* [original] *penalty*). If he did not know, do not punish him.

#### Article 411. *The Degrees of Competence of [Officials] Having Jurisdiction for Executing [Sentences] of Prisoners.*

1. All ([officials] *having jurisdiction over*) prisoners (*must begin with*) interrogation until the matter is clear (*and continue*) with the investigation and examination until the matter is completely handled. [These steps being completed,] if the punishment is military exile, exile, or penal servitude, [the accused] will be sent to the place of exile or penal servitude by the prefecture, department, or district. If there is a death penalty, if it is in the Capital the Three Judicial Offices will decide the matter. If it is outside, the governor-general or the governor will examine [the case] to see if there is injustice. Then he will prepare a judgment according to the law (*for beheading or strangulation which will contain a statement of the facts and the law* [the name of the offence].) The Three Judicial Offices will review the matter and decide and report to the Emperor (*and wait until there is*) a reply. (*If there is to be immediate execution, they will*) delegate an official to carry out the execution. If [this official] intentionally delays and does not execute the sentence, he will be punished with 60 strokes of the heavy bamboo.

2. If, (*while the case is being jointly reviewed* [for the Autumn or Court Assize], *the offender (himself)* makes statements contrary (*to his original statements or*) a household member (*acting for him complains*) of injustice and oppression, (*the officials who are reviewing the record*) must immediately (*again*) conduct an interrogation. If it appears that there was a violation of the law, (*the* [reviewing officials] *will immediately meet together*) with the original examining official and clerk and with those who originally reviewed the case to try and revise it. ([The reviewing officials will] *call the original investigating official and clerk and the revising officials and go over the case together, and rectify the* [original] *penalty*.)

3. If the (*prisoner*) shows that he is the victim of injustice and oppression (*and the reviewing officials*) do not do him justice (*and rectify* [the judgment]), sentence on the basis of intentionally increasing a penalty [erroneously Art. 409], (*e.g. if there is receipt of illegally obtained property, or an action that results from private passions*), or on the basis of mistakenly increasing a penalty [erroneously], (*e.g. if he was not careful in investigating at the time* [ibid.]).

Article 412. *Examining the Wounds on a Corpse and not [Reporting] Correctly.*

1. Whenever (an official having jurisdiction, when he first) investigates the wounds on a corpse, (when he receives a commission to do this) and the written [commission] has arrived, invents a pretext (and delays) and does not immediately investigate, thus causing the corpse to decompose, or (although he immediately investigates), he does not himself go to (the place where the corpse is) and superintend [the examination], but sends a clerk or runner (and based on his own opinions he increases or decreases [the seriousness or number] of the wounds), or if the initial (investigator along with) the reviewing official together view [the corpse] and harmonize [their statements as to] the condition of the corpse, or, (although he personally goes to the corpse and superintends [the examination]), he does not examine diligently and has made changes [in the facts in his report], (e.g. he has changed [a wound from] being one that is to the interior of the skull to one that is to the surface of the head), or has [reported the wound] as less or more severe than it was (as, what is minor is declared to be serious or what is serious is declared to be minor), or [in his report] he has increased or decreased [the number] (as, a few [wounds] are increased so that there are many, or there is reduction to none) [and in consequence] the corpse's injuries are not [reported] accurately and the specification (of the important injuries) which led to death is essentially unclear, then the principal official receives 60 strokes of the heavy bamboo. The chief officer (who participated in the examination) receives 70 strokes of the heavy bamboo. The chief clerk receives 80 strokes of the heavy bamboo. If the coroners investigate incorrectly and harmonize [their stories] as to the corpse's condition, the punishment is like (that of the chief clerk, 80 strokes of the heavy bamboo.) As for (the officials and the coroners) who because (their examination is not accurate) [cause] the punishment to be increased or decreased, punish on the basis of mistakenly decreasing or increasing a penalty [Art. 409]. (Mistakenly decreasing is reduced five degrees [from intentionally decreasing]; mistakenly increasing is reduced three degrees [from intentionally increasing].)

2. If (the official or coroner) receives consideration and intentionally does not investigate and report according to the facts (so that the penalty is increased or decreased), sentence on the basis of intentionally decreasing or increasing a sentence [Art. 409]. If the [penalty for] illegally obtained property is greater (than [that for] intentionally decreasing or increasing [the punishment]), calculate the amount of illegally obtained property and

sentence on the basis of [receiving consideration] and perverting the law [Art. 344] according to the heavier penalty. (Only sentence the investigators who receive consideration and examine incorrectly. As to the others who do not know the circumstances, nevertheless sentence on the basis of mistakenly decreasing or increasing sentences [Art. 409].)

Article 413. *Executing a Sentence [in a Way that is] not in Accordance with the Rules.*

1. In any case where an official executes a sentence [in a way] that is not in accordance with the rules (as, if he uses the heavy bamboo where he should use the light bamboo), he will receive 40 strokes of the light bamboo. If death results, he will receive 100 strokes of the heavy bamboo. (The said officials or clerks) will all contribute 10 taels of silver to the burial expenses (which will be given to the household of the deceased). The one who inflicted the blows [the executioner] will [receive the same penalty] reduced one degree. (He will not be assessed silver [for the burial expenses].) If the one inflicting the blows [the executioner] in inflicting the [blows] does not touch the skin [and thus does not hurt the offender], then he will be punished with the number of blows which examination reveals (did not touch the skin). The punishment will be inflicted on the one who was the cause of the matter (whether the one who gave the order or the one who inflicted the blows). If he receives consideration (and the execution is not in accordance with the rules or does not touch the skin), calculate the value of the illegally obtained property and sentence on the basis of [receiving consideration] and perverting the law according to the heavier penalty [Art. 344].

2. If a (civilian or military) supervisory official in a public matter (issues an order to inflict [blows]) on a vulnerable part of the body and not on the part designated by law to inflict blows, or himself inflicts blows with a large heavy bamboo, or strikes with a knife, or with the hands or feet, if the consequence is injuries involving fractures or above, reduce from the penalty for injury in an ordinary affray [Art. 302] two degrees. If death results, the penalty is 100 strokes of the heavy bamboo and penal servitude of three years. Assess burial expenses of 10 taels of silver. Those who receive the orders and inflict [the blows will] receive these punishments reduced one degree. The punishment is inflicted on the one who caused it. (If it resulted from the supervisor, punish the supervisor. If from the one who inflicted the blows, punish the one who inflicted the blows. If it not

a public matter, sentence on the basis of putting law-abiding persons to the question [Art. 396].) If (an official having jurisdiction has a punishment executed on a person, or a supervisor causes a person to be punished), and if the beating is inflicted on the buttocks or thighs, places designated by law for the infliction of punishment, and it happens that death results [unexpectedly], or (after the execution of the punishment), [the prisoner] commits suicide, there is no punishment.

**Article 414.** *When the Head Official [of a Yamen] or One Sent on a Mission is Guilty of Committing an Offence.*

Whenever outside the capital the head official of any yamen or someone (inside the capital who has received an imperial written order) to go on a mission and who, in the place where he is stationed or through which he goes to act officially, commits an offence (whether it is a public or private offence), the subordinate officials in the office (in the case of punishments of exile or below) may not (exceed their duty) and on their own initiative carry out the interrogation. All must (set out the facts and causes of the offence) and report (to their own superior) to take action. If the offence is one that involves the death penalty, (then the first action) is to take control [of the offender] and await a reply (from the superior). The seal (of the yamen) and the locks and keys (to the granaries, treasuries and prisons) will be sent to the immediate inferior official who will take charge. If there is no head official and the second in command who is in charge of the seal (commits an offence), it is the same as if the head official [commits an offence]. Any violation of these provisions (by the subordinate official) will be punished with 40 strokes of the light bamboo.

**Article 415.** *Citing Laws and Orders in Deciding Cases.*

1. Every (official) who is deciding a case must cite the [articles of the] law or the sub-statutes. Any violation (failure to cite) will be punished with 30 strokes of the light bamboo. If ([in the] law there are) many [rules] gathered together in one article, (and the official) merely refers to the ([ones dealing with the] actual) offence that was committed, this is permitted. (If the offence that was committed is merely referable to one [rule dealt with

in a Code article], it is permissible to extract this rule in order to base one's decision on it.)

2. It is not permitted to cite and consider as laws by analogy Imperial decrees that decide individual cases and that have not been promulgated as laws. If someone cites one on his own authority (and analogizes from it) so that there is an incorrect decrease or increase of the punishment, sentence on the basis of intentional or mistaken [decrease or increase in the sentence Art. 409]. (If it is a case of intentional citation and analogizing, sentence on the basis of intentionally completely acquitting or convicting under [erroneously] increasing or decreasing a sentence [Art. 409]. If it is mistaken citing and analogizing, award the penalty for mistakenly decreasing or increasing, reduced [one] degree [ibid].)

**Article 416.** *After the Decision in a Case, Obtain the Prisoner's Submission [to the Judgment or Permit Him to] Petition for Revision.*

(Submission means that in his heart [the offender] admits the correctness of the sentence. A petition for revision means a petition [for correction on the basis of incorrect] reasoning. If [the judgment] is not correct, he will petition for revision. If it is correct, he will submit. He either submits or petitions for revision. Therefore it is said, submits or petitions for revision.)

1. In every case where a prisoner has (committed) an offence entailing a penalty of penal servitude, exile, or death (the official who has conducted the interrogation and decided the case will call the prisoner (himself) and his household members (to come to the official). He will announce to them the punishment and (require and) obtain from the prisoner a statement in writing that he submits or petitions for revision (so that his submission [if he gives it] is in accord with his intention). If he does not submit, permit [the prisoner] himself (to set out the reasons for his petition) in revision. [The case] should be carefully re-examined. If there is a violation [of this rule]; in the case of [a penalty of] penal servitude or exile [the official will receive] 40 strokes of the light bamboo. If [the penalty] is death, he will receive 60 strokes of the heavy bamboo.

2. If the prisoner's household members are 300 li or more distant, (there is no way to call them to appear). Merely obtain the written submission or petition for revision from the prisoner (himself). This [case] does not fall within the [above] provision requiring the informing of the household members of the penalty.

**Article 417.** *Convictions [Announced] Prior to an Amnesty Which Are Incorrect.*

Whenever (*the official receives [notice of] an amnesty when he has already*), prior to the amnesty, decided the case and its punishment, and the punishment is incorrect, if he has decided an offence to be major instead of minor (*the circumstances of the offence being those that are subject to an [ordinary] amnesty*) then (*according to the law*) it must be corrected to the lighter punishment (*in order to accord with grace and leniency*). If a serious offence has been adjudged to be a light one, (*the circumstances of the case are*) such that this offence cannot be pardoned by an ordinary amnesty. [In this case] the penalty (*must*) be increased to be in accordance with the law (*in order to prevent the lucky escape [from the penalty]*). If (*there is a decision that a case is minor when it is serious, or serious when it is minor and this is a case of the*) official or clerk (*prior to the amnesty*) intentionally decreasing or increasing [a sentence] [Art. 409], (*and it is not a mistaken decrease or increase*), in that case, although there is an amnesty [the official or clerk] will not receive a pardon. (*This is an instance of the offence of decreasing or increasing the penalty intentionally. If it is a case of mistakenly decreasing or increasing the penalty, then [the official or clerk] may be pardoned under the amnesty.*)

**Article 418.** *One who, Hearing there will be an Amnesty, Commits an Offence.*

1. Anyone who learns that there will be an amnesty and intentionally commits an offence (*desiring a pardon*) will receive the usual penalty increased one degree. (*If his intentional offence involves the death penalty, then still [decide] in accord with the ordinary law.*) Although there is an amnesty, [the offender] will not be pardoned.

2. If the official learns that there will be an amnesty and intentionally decides the case and executes the penalty of an offender, he will be sentenced on the basis of intentionally increasing a penalty [Art. 409]. (*If it is something not pardoned by an ordinary amnesty and he decides the case and executes [the penalty], do not punish.*)

**Article 419.** *Those Condemned to Penal Servitude Who do not Perform Services.*

1. In the case of all prisoners sentenced to penal servitude who are assigned to perform services in the salt-pits or iron foundries, who are required to begin to perform the services but do not begin to perform them, as well as persons sentenced to penal servitude who have been excused [from work] because of illness and whose illness is cured, if it is not ordered that the days [of service that were missed] be computed to make up (*and compensate for the leave and the lost days*) of service, (*the prisoner and the supervisor or guardian will each*), for more than three such days receive 20 strokes of the light bamboo. For each [additional] three days, add one degree. The punishment is limited to 100 strokes of the heavy bamboo.

2. If the years of servitude of a prisoner sentenced to penal servitude have not been fulfilled, and the supervisor or guardian intentionally permits him to flee and return home, or lets him hire someone to replace him, then [the supervisor or guardian] must serve the (*uncompleted*) number of days and months which remain in the original sentence of penal servitude. (*Even though there are many supervisors and guardians*), sentence those who were the cause of the escape (*those who permitted it*). If they received consideration, calculate the amount of illegally obtained property and sentence on the basis of [receiving consideration] and perverting the law [Art. 344] according to the heavier penalty. Moreover, the prisoners sentenced to penal servitude (*who have fled or hired substitutes*) will be sentenced according to the [above] law. (*Calculate the days and sentence them for their flight or hiring [substitutes].*) They will make up the service. (*They will fill out the service for the remainder of the sentence to servitude from which they fled or hired someone to perform.*)

**Article 420.** *When Women Commit Offences.*

1. In every case in which a woman commits an offence other than fornication and offences that entail the death penalty, for which she will be imprisoned, she will be put in the charge of her husband who will be in control of her. If she has no husband, she will be put in the charge of her relatives within the degrees of mourning, or of the neighborhood, for supervision. She will be held at the disposition of the yamen to be called [to appear]. It is not permitted to incarcerate [women] generally. Any violation of this rule is subject to a punishment of 40 strokes of the light bamboo.

2. If a pregnant woman commits an offence that [requires her to] be put

to the question or beaten, she will be put in charge as above [para. 1]. Wait until 100 days after the delivery and then conduct the questioning or beat her. If she has not delivered and she is put to the question or beaten and as a result she aborts, the official or clerk will receive the punishment for injury in an ordinary affray [Art. 302] reduced three degrees. If she dies, the punishment is 100 strokes of the heavy bamboo and exile to 3000 *li*. If delay after the birth is not observed and she is questioned and beaten (*so that she dies*), reduce [this penalty] one degree.

3. If (*a pregnant woman*) commits an offence that is punishable with death, have a midwife come to the prison and examine her. Also let 100 days elapse after the birth to execute the punishment. If she has not given birth and [the penalty] is executed, the penalty [for the violator] is 80 strokes of the heavy bamboo. If the delay after birth has not elapsed, and the sentence is executed, his punishment is 70 strokes of the heavy bamboo. If the delay is exceeded and the sentence is not executed, his penalty is 60 strokes of the heavy bamboo.

4. If there is [simply] failure [to investigate] ([the official] *fails to make an investigation so that there is a violation of these rules*) reduce the penalty three degrees. (*This applies to all the above cited cases. If [the woman] should not be imprisoned, and she is imprisoned, the penalty will be 10 strokes of the light bamboo. If the foetus is aborted as the result of putting the pregnant woman to the question and beating her when this should not be done, the penalty is 70 strokes of the heavy bamboo. If death results, 70 strokes of the heavy bamboo, and one and a half years of penal servitude. If the delay after birth has not elapsed and the woman is put to the question and beaten, so that she dies, the penalty is 60 strokes of the heavy bamboo and one year of penal servitude. If she is condemned to death, and the punishment should not be inflicted, but is inflicted, if she has not delivered and is executed, the penalty is 50 strokes of the light bamboo. If the delay [after delivery] has not expired and she is executed, the penalty is 40 strokes of the light bamboo. If the delay expires and there is no execution of the penalty, the penalty is 30 strokes of the light bamboo.*)

#### Article 421. *Await the Reply to a Petition to the Emperor in the Case of those Condemned to Death.*

1. In every case where [an offender is] condemned to death, and [the official] does not await the reply to the petition to the Emperor [to

execute the death penalty] but proceeds without authorization to carry out the execution, he will be sentenced to 80 strokes of the heavy bamboo. If the reply has already been received, he is permitted three days and then he must carry out the execution. If the delay has not passed and he executes the sentence, or if (*the three day delay*) is exceeded, and he does not execute it, in each case he will be sentenced to 60 strokes of the heavy bamboo.

2. In the case of any of the Ten Great Wrongs which must be punished with death [Art. 2], and in the case of theft with force [Art. 266], although [the offender] must be executed immediately without waiting, if [the offender] is executed on a day when execution is prohibited, sentence [the official] to 40 strokes of the light bamboo.

#### Article 422. *Deciding the Punishment Improperly.*

1. In every case of deciding a punishment, if it is required to order the execution [of the penalty] and [the official] permits redemption, or it is required that [the offender be permitted to] redeem but [the official] orders execution, in each case sentence according to the punishment of decreasing or increasing the sentence [Art. 409]. Reduce the penalty for an intentional or mistaken [violation] one degree.

2. If strangulation is prescribed and there is beheading, or if beheading is prescribed and there is strangulation, the penalty is 60 strokes of the heavy bamboo. (*This refers to an intentional act. If it is*) mistaken, reduce three degrees. In a case where the death sentence has already been executed, an [official] who mutilates the corpse after execution will receive 50 strokes of the light bamboo. (*As for the enemies [of the deceased] who chop and injure the corpse, sentence according to mutilating a corpse [above].*)

3. If the family members of one sentenced for rebellion or high treason, who are incriminated by attain and must become [slaves] of the government, are released, or if they ought not to become [slaves] of the government, and they do [become slaves], in each case sentence [the responsible official] according to the provision for decreasing or increasing a sentence to exile either intentionally or mistakenly. [Art. 409] (*If it is intentional, then sentence on the basis of intentionally decreasing or increasing. If there is no intention, and there is a failure in carefully inspecting, sentence on the basis of mistakenly decreasing or increasing.*)

Article 423. *A Chief Clerk Who Writes Confessions in the Place of [the Accused].*

All officials who conduct investigations and interrogations into offences subject to penalty (*must fix the penalty in accordance with the written confession of the offender*). If such a person as the chief clerk amends or prepares the confession for another, and increases or decreases (*the true*) facts or circumstances, causing (*the official who decides*) the case to decrease or increase the penalty, sentence with the punishment on the basis of intentionally decreasing or increasing the sentence [Art. 409]. If the offender really does not know how to write, then [the official] is permitted to order someone (*in the office*) who is not involved in the case (*on the basis of what the offender himself has confessed to*) to write it for him. (*If the chief clerk writes it for [the offender] and there is neither a decrease nor increase in the penalty, still sentence according to the provisions of violating an imperial written order of the Emperor [Art. 62].*)

PART VII  
[Laws Relating to]  
*The Board of Works*

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CHAPTER I  
*Construction*

*Article 424. Engaging in Construction Without Authority.*

1. All civil or military officials who [desire to engage in] construction and are required to notify their superiors [of their intentions] and do not do so, or who must await their replies and do not, who without authorization proceed to send workers and [begin the work] (*even though they do not collect any property* [such as materials, are punishable]). In each case calculate the salaries of the persons hired to perform this work (*for every day figure 8 fen, 5 li, 5 hao* [0.0855 taels of silver per person] *and*) sentence [the official] for illegally obtained property [Art. 345] ([using this amount] *to determine the penalty*).

2. If, [an official] engages in construction which it is against the law (*it is a proper* [work] *but he does it on his own initiative*), or at a time other than (*that which is authorized, on his own authority*) he sends workmen to begin the construction, (*although he has petitioned and has received a reply, then calculate the* [amount of the salaries of] *of the workmen and sentence for illegally obtained property*), the same penalty as [above]. (*Sentence to the penalty for not requesting authorization or awaiting a reply* [para. 1].)

3. If (*a military or civilian official happens to come across*) a city wall that is collapsing or a granary or treasury or other public building that is injured, (*and the matter is urgent and does not permit delay*), and he immediately dispatches workers or soldiers to make repairs, (*then although he did not petition for the work to be done or await a reply, this cannot be said to be an unauthorized act and*) he is not within this law (*of being punished for illegally obtained property*).

4. If [an official] engaged in construction, in computing the (*amount of*) supplies in his petition [to his superior], gives amounts of materials and days of work (*required*) that are not correct, he will receive 50 strokes of the light bamboo. If (*because he has petitioned inaccurately by stating that* [where in fact] *a small quantity is* [required], *a large quantity* [is required], *so that in addition to the proper quantity* [he will receive an additional amount], *and*) there is injury to this [surplus] property or the workers' [time] is wasted, then in each case, calculate the price of the surplus things

that were injured or the wages for hiring [the surplus] workmen that were spent (and if the punishment [for taking property of that amount illegally] is) greater (than 50 strokes of the light bamboo), then sentence (on the basis of) illegally obtained property [Art. 345] (using this amount) to determine the penalty. (The penalty is limited to 100 strokes of the heavy bamboo and penal servitude of three years. He does not take the property for his own use. Therefore he does not need to reimburse the government.)

**Article 425. Wasting Labour in Procuring [Things] That Cannot Be Used.**

In the case of every (official having responsibility) who makes use of labour to procure wood, stone, and such materials, or to bake and form bricks, tiles, and the like, and wastes labour [on making things] that cannot be used, (then as to the official in charge and the government artisans and labourers), calculate the amount of money paid for the labour and sentence them for illegally obtained property [Art. 345]. (The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years.) If there is construction work or demolition [work] (such as tearing down a house [that is in ruins] or a wall [that is falling down]), and proper measures are not taken, and someone is killed as the result of a mistake, (then the official in charge and the labourers will) be sentenced on the basis of unintentional killing [Art. 292] (whether it is a matter of having procured unsuitable materials or failing to take precautions in construction or demolition). The government artisans and the supervisory officials will each be punished on the basis (of what they are responsible for or directed others to do. It is not permitted to extend excessively [liability to those not directly responsible]. If there is an injury from mistake, there is no punishment.)

**Article 426. Engaging in Construction Contrary to the Rules.**

Every (official having responsibility for) constructing (such things as official buildings or articles) who does not act according to the rules, will receive 40 strokes of the light bamboo. If he manufactures military articles contrary to the rules, or if he weaves rolls of silk that are [defective by being] coarse or thin (but the things can still be used), each [official] will

receive 50 strokes of the light bamboo. If (the one constructing or weaving works contrary to the rules, so that [the things produced] are totally) unusable (or somewhat unusable so that) they must (be re-) constructed (and afterwards they are usable), in each case calculate the value of the injury to the article and the [salary for hiring] artisans, and, if (the punishment [for illegally obtained property of this amount]) is more serious (than 40 or 50 strokes of the light bamboo), punish for illegally obtained property [Art. 345]. (The punishment is limited to 100 strokes of the heavy bamboo and penal servitude of three years). If these are articles which are to be furnished for imperial use, add (to the penalty for illegally obtained property) two degrees. (The penalty is limited to exile to 2500 li.) Each government artisan will receive the punishment for (what he constructed or wove). The official in charge will receive the punishment of the government artisan reduced one degree. The [punishments of the] supervisory official or clerk will be further reduced one degree (from the [punishment] set out above for those who, contrary to the rules, construct or weave things that cannot be used). Moreover, (the government artisans, the official in charge, and the supervisory official and clerks must) jointly pay back the price of the things and the value of the labour to the government.

**Article 427. Fraudulently Taking Excessive Materials.**

1. In every case where the head government artisan in a manufacturing or construction agency (apart from the quantity required, falsely and fraudulently) uses an excessive quantity of materials (and subsequently, fraudulently) appropriates them for himself, calculate the value of the illegally obtained property (that he has appropriated) and sentence on the basis of a supervisor or guardian himself stealing [Art. 264]. (Do not distinguish between principal and accessory. Lump the illegally obtained property together to determine the punishment. If it amounts to 40 taels, the punishment is beheading.) Levy on what [was illegally obtained] and return it to the government. (If he has not appropriated it for himself, merely sentence on the basis of calculating materials incorrectly [Art. 424].)

2. When the official in charge and every official and clerk (who is delegated) to check the facts and who knows the circumstances, together (concoct a false report or do not report) [each] will be punished with the same penalty (as for fraudulent expenditure [above]. If the penalty amounts

to death, reduce one degree.) For one who [simply] fails to discover, reduce the penalty three degrees. The penalty is limited to 100 strokes of the heavy bamboo.

**Article 428.** *Bringing [one's own Materials] to be Woven into Silk Cloth.*

Every supervisory or guardian official, or clerk who brings his own materials without authorization into a government mill, and has them woven into silk cloth, will receive 60 strokes of the heavy bamboo. The silk will be forfeit to the government. The government artisan will receive 50 strokes of the light bamboo. If the official in charge knows and does not report, he will receive the same punishment (*as the supervisory or guardian officials or clerks, 60 strokes of the heavy bamboo*). If he simply fails to discover the matter, reduce the punishment three degrees, (*that is, to 30 strokes of the light bamboo. If the official in charge violates the prohibition and brings materials to be woven, also punish the supervisory and guardian officials and clerks for failing to report or for negligence in discovering [wrongs] [Art. 130].*)

**Article 429.** *Weaving and Manufacturing Silk with Dragons and Phoenixes Contrary to the Prohibitions.*

1. Everyone among the people who weaves and sells coarse silk [*ning si*], or gauze [*sha lo*], with the prohibited designs of the dragon or the phoenix, will receive 100 strokes of the heavy bamboo. The cloth will be forfeit to the government. (*One who buys and uses [silk with such designs] which he is not authorized to use will receive 100 strokes of the heavy bamboo and penal servitude of three years. If he has not used it, the punishment is 30 strokes of the light bamboo.*)

2. The weavers and artisans who embroider and [create designs by] knotting the pile will receive the same penalty. (*They also [receive] 100 strokes of the heavy bamboo.*)

**Article 430.** *Exceeding Time-Limits for Manufacture.*

1. In every works there will be (*an annual*) quota for the manufacture of the silk or military articles that are usually procured. If the government

artisans exceed the time-limit, and do not produce an adequate amount, then taking (*the quantity to be manufactured [the quota] as*) ten portions, for one portion [that is short], the government artisans will receive 20 strokes of the light bamboo. For each [additional] portion, add one degree. The punishment is limited to 50 strokes of the light bamboo. The official in charge will receive a punishment reduced from that of the government artisans one degree. The punishment of the supervisory officials or clerks will be reduced still another degree from that of the official in charge.

2. If (*the official in charge*) does not distribute according to the time-period materials (*to the government artisans in the amounts required for manufacture*) the official in charge will receive 40 strokes of the heavy bamboo and the supervisory officials or clerks will receive this penalty reduced one degree. (*The government artisans will not be punished.*)

**Article 431.** *Repairing Granaries or Treasuries.*

In every place (*both within and without the capital*) if there is injury to public buildings, granaries, treasuries, or factories, (*all of which*) are government buildings, (*if this does not affect official documents, then it affects public moneys and supplies*) the proper official or clerk will immediately send a dispatch to the competent official having authority (*over the place*), who will (*calculate the quantity of materials [needed]*) and make repairs. If there is any violation, the penalty is 40 strokes of the light bamboo. If, because (*he does not make a request or make repairs*), there is injury to government property, then according to the law [this article] award him (*40 strokes of the light bamboo*) as punishment. He will pay compensation for the injured property (*which will be returned to the government.*) If (*the competent official or clerk*) has already sent a dispatch to the official having authority, and [the latter] has failed (*to carry the matter out—he does not immediately make repairs*) the punishment will be inflicted on the official having authority. (*He will also receive 40 strokes of the light bamboo. He will also be forced to make compensation for the injury to the property. The official or clerk having basic responsibility will not be punished.*)

**Article 432.** *Officials or Clerks Having Positions of Responsibility Who do not Live in Public Buildings.*

1. Officials or clerks having positions of responsibility in prefectures, departments, or districts who do not live within official quarters in public

buildings, but who live out in the community in private houses, will receive 80 strokes of the heavy bamboo.

2. If someone causes articles of public use to disappear (*as, if the articles are destroyed or lost and are not returned to the government*), punish on the basis of destroying or losing government property [Art. 98]. (*If they are destroyed, calculate the amount of the illegally obtained property and sentence as if it were non-manifest theft [Art. 269] raised two degrees. There will be no tattooing. If it is lost, then reduce the penalty for destroying government property [Art. 98] three degrees and seek repayment.*)

## CHAPTER 2

*Dikes***Article 433. Secretly Breaching Dikes.**

Everyone who secretly breaches a (*government*) dike, will receive 100 strokes of the heavy bamboo. One who secretly breaches (*a private*) levee or reservoir, will receive 80 strokes of the heavy bamboo. If (*as a result of the secret breaching [of the dike], it results that [water escapes and] there is an extensive flood and*) injury to households, and property is washed away and lost, and the harvest is soaked and destroyed, calculate [the value], and if the value of the property [regarded as illegally obtained property results in a punishment] that is more serious (*than strokes of the heavy bamboo*), inflict the punishment for illegally obtained property. (*The punishment is limited to 100 strokes of the heavy bamboo and penal servitude for three years.*) If, as a result, someone is killed or injured, then, in each case, apply the punishment for killing or injuring in an affray [Art. 290] reduced one degree. (*The word 'each' refers to the dikes, levees, or reservoirs. If someone for gain or because of hatred*) intentionally breaches a dike, the punishment is 100 strokes of the heavy bamboo and penal servitude of three years. If he intentionally breaches levees or reservoirs, reduce the penalty two degrees. If (*the value of*) what is washed away (*is calculated*), and the penalty for illegally obtained property of that amount [Art. 345] is more serious (*than penal servitude*), sentence as if it were non-manifest theft [Art. 269]. (*The punishment is limited to 100 strokes of the heavy bamboo and exile to 3000 li.*) There will be no tattooing. If, as a consequence, there is killing or injury to an individual, sentence on the basis of intentionally killing or injuring [Art. 290].

**Article 434. Missing the [Proper] Time to Repair Dikes.**

1. When (*prior to an accident*) dikes are not repaired and (*strengthened*), or (*although*) they are repaired, they are not repaired at the proper time, the supervisory officers and clerks will each receive 50 strokes of the light bamboo. If there is injury to households, or if property drifts away and is

lost, he will receive 60 strokes of the heavy bamboo. If death or injuries [to human beings] result, the punishment is 80 strokes of the heavy bamboo.

2. If there is someone who does not (*prior to an accident*) repair (or *strengthen*) levees, or (*although*) he repairs them, he does not do so at the proper time, sentence to 30 strokes of the light bamboo. If the harvest is soaked and lost, the penalty is 50 strokes of the light bamboo.

3. If violent waters or thunderstorms injure a dike, and it is beyond human power to deal with [the situation], there is no punishment.

#### Article 435. *Occupying the Public Ways.*

Everyone who occupies streets, alleys, or roads, and erects a building [on them], or makes a garden [out of them], will receive 60 strokes of the heavy bamboo. Each will be ordered to restore the former conditions (*by destroying the construction and making repairs*). One who pierces the wall of his house so that refuse runs out to the streets or alleys will receive 40 strokes of the light bamboo. (*If he pierces the wall so that*) water runs out, there is no penalty.

#### Article 436. *Repairing Bridges and Roads.*

1. In the case of all bridges and roads, the assistant official of the prefecture, department, or district (*who has the special responsibility*) to manage them should, at times when agricultural activity has stopped, frequently inspect them one by one and repair them. (*The bridges*) must be durable and solid, (*and the roads must be*) level and smooth. If there is injury [to the bridges and roads] and there is neglect in repairing them, hindering traffic [along the routes], then the supervisory official and clerk will receive 30 strokes of the light bamboo. (*This is for the case where originally there was a bridge and it has not been repaired.*)

2. If at a place where there is a ferry it is necessary to construct a bridge and it is not constructed, or it is necessary to provide a ferry-boat and it is not provided, the penalty is 40 strokes of the light bamboo. (*This [applies] where there was no bridge and it is necessary to build one or to provide [a ferry-boat].*)

## GLOSSARY

*preceded by  
English equivalents  
!!*

This glossary is designed primarily for those who read Chinese and who wish to check on the original of an English term about whose Chinese equivalent there may be some doubt. Abbreviated references are: Bodde and Morris for D. Bodde and C. Morris *Law in Imperial China* (Cambridge, Mass. 1967); Giles for H. Giles, *A Chinese-English Dictionary*, 2nd edn. (Shanghai, 1912; Taiwan repr., 1967); Hsiao for K.-C. Hsiao, *Rural China* (Seattle, 1960); Hucker for C. Hucker, *A Dictionary of Official Titles in Imperial China* (Stanford, 1985); Matthews for R. Matthews, *Chinese-English Dictionary* rev. American edn. (Cambridge, Mass., 1966).

Chinese characters are followed by pinyin romanization forms in italic.

accessory 從 *cong*

according to the books on fortune-telling (Art. 178) 依經 *yi jing*

adopt 乞養 *qi yang*

adoptive mother 養母 *yang mu*

after the final review of capital cases 監候 *jian hou*

all 皆 *jie*

Altar of the Earth 太社 *tai she*

area military commandant 提督 *ti du*

as if it were (Art. 39) 準 *zhun*

assistant official 佐貳官 *zuo er guan*

attaint (convicted by) 緣坐 *yuan zuo*

authorities 官司 *guan si*

authorized penal servitude (five years) (Bodde and Morris, 82-3) 準徒 *zhuntu*

Autumn Assizes 秋審 *qiu shen*

award an excessive or deficient sentence 出入 *chu ru*

bailiff 管莊 *guan zhuang*

banishment—'life service as a slave in a Manchu or other Tatar military post in Manchuria... or western Sinkiang' (Bodde and Morris, 78). However, in Art. 9 it seems to be simply a generic term that includes penal servitude, exile and military exile 發遣 *fa qian*

bannerman 旗人 *qi ren*

*bao zhang*: head of a *bao* (1000 households, Hsiao, 28, 31) 保長 *bao zhang*

be selected to serve as an official as a result of passing examinations 科貢應選 *ke gong ying xuan*

beating with the heavy bamboo 杖 *zhang*

beating with the light bamboo 笞 *chi*

bo: a title of nobility, usually translated as Earl 伯 *bo*  
bring about losses in military operations 致失誤軍機 *zhi shi wu jun ji*  
bring in for interrogation. See also: summon officials for interrogation 勾問  
*gou wen*  
Buddhist monk's robe 袈裟 *jia sha*  
cabal 姦黨 *jian dang*  
cangue—a sort of portable pillory (Bodde and Morris, 95) 枷號 *jia hao*  
caring mother—a concubine designated to care for a child when the natural mother dies 慈母 *ci mu*  
carry on the interrogation 推問 *tui wen*  
certificate guaranteeing the facts after investigation: a certificate issued by an official in the place where, e.g. an accident occurs to a travelling official which prevents the latter from arriving on time 保勘文憑 *bao kan wen ping*  
change their station (in reference to officials) 改除 *gai chu*  
checkers 攔攔 *luan lan*  
chief clerk (normally; in Art. 7 it is translated as clerk) 吏典 *li dian*  
chief Officer 首領官 *shou ling guan*  
child (boy or girl) 子 *zi*  
*chou*: a type of silk 綱 *chou*  
clan 宗 *cong*  
coinage office of the Board of Works 寶源局 *bao yuan ju*  
coinage office of the Board of Revenue 寶泉局 *bao chuan ju*  
commandant 校尉 *xiao wei*  
Commandment of the Defence 守禦官 *shou yu guan*  
commission (of an official, Art. 12) 誥命 *goa ming*  
commission (of official, Art. 14) 誥勅 *gao chi*  
community head 里長 *li zhang*  
community receiver of taxes 里納 *li na*  
[community] tax collection guarantor 保歇 *bao xie*  
[community tax] prompting agency—a person in the *li*, usually the community head, whose job it was to remind people of their taxes (see Hsiao, 95–7) 經催 *jing cui*  
company commanders 千總 *qian zong*  
completed their service (in reference to officials) 任滿 *ren man*  
confront someone in a criminal case 追對刑名 *zhui dui xing ming*  
confrontational interrogation 對問 *du wen*  
courier soldiers 鋪兵 *pu bing*  
Court Assizes 朝審 *chao shen*  
Court of Colonial Affairs 理藩院 *li fan yuan*  
Court of Imperial Sacrifices 太常寺 *tai chang si*

*delay*

critically disabled: 'blind in two eyes or lame in two legs' (Art. 22) 篤疾 *du ji*  
death by slicing, the lingering death (see Bodde and Morris, 93–5) 凌遲 *ling chi*  
deed tax 稅契 *shui qi*  
definitive judgment 獄成 *yu cheng*  
definitively dismissed from office 罷職不敘 *ba zhi bu xu*  
deliberate and propose a provisional sentence 議擬 *yi ni*  
department 州 *zhou*  
deputy [pasturage] director 牧副 *mu fu*  
*dian*: a sale with right of repurchase (often translated 'mortgage') 典 *dian*  
*dian* buyer 典主 *dian zhu*  
*dian* seller or owner 業主 *ye zhu*  
Directorate of Astronomy 欽天監 *qin tian jian*  
disciple 弟子 *di zi*  
discord 不睦 *bu mu*  
dismiss him from the service and have him leave his post 革職離任 *ge zhi li ren*  
dismissal (divorce) of a married woman 被出 *bei chu*  
district 縣 *xian*  
document presenting a statement to the Throne (Giles)—the communication to the Emperor 進表文 *jin biao wen*  
*dou*: a rice measure 'standardized to contain 316 cu. in.' (Matthews); sometimes translated as 'peck' 鬥 *dou*  
*duan gong*: a colloquial name for a male sorcerer 端公 *duan gong*  
Dong hua gate (of the Forbidden City) 東華門 *dong hua men*  
elder (relative)—a relative of the same generation who is older 長 *zhang*  
the eldest son of the concubine 庶長子 *shu zhang zi*  
Enlightened and Respectful Society 明尊教 *ming zun jiao*  
execute immediately (without waiting for the Assizes) 立決 *li jue*  
exile 流 *liu*  
express courier station 急遞鋪 *ji di pu*  
extinguishment of a wife's duty to her husband's family, as by the husband's mistreatment of wife's parents 義絕 *yi jue*  
failure to fulfil one's duty 不移 *bu yi*  
father's subsequent [official] wife (the woman married as an official wife after the official wife dies) 繼母 *ji mu*  
file, as, starting a file for a case 文案 *wen an*  
fine of all or part of official salary 罰俸 *fa feng*  
Fishing-Tax Office. See also: those charged with river and lake affairs 河泊所 *he po suo*  
five degrees of mourning: 五服 *wu fu*  
1. e.g. subject's parents 斬衰 *zhan cui*  
2. e.g. a subject's paternal grandfather 齊衰 *qi cui*

3. e.g. father's married sister or father's brother's son 大功 *da gong*  
 4. e.g. unmarried sister of paternal great-grand-father 小功 *xia gong*  
 5. e.g. grandson's wife 總麻 *si ma*  
 flags 旗纛 *qi du*  
 foot-measure (Chinese foot=10 Chinese inches, 14.1 English inches, or 0.3581 metres) 尺 *chi*  
 for the imperial use 禦 *yu*  
 Forbidden Garden 禁苑 *jin yuan*  
 forcible taking—a wrongful taking in which there are few persons taking and no weapon is used, as opposed to 'theft with force' (Art. 266) (see note to Art. 268) 搶奪 *qiang duo*  
 foreigner—person from areas outside the direct control of the central government although conceivably within the nominal frontier 外境 *wai jing*  
 fortified city 城池 *cheng chi*  
 garrison 衛所 *wei suo*  
 the gate of a palace hall 殿門 *dian men*  
 general public disorder 賊 *zei*  
 gods of earth and grain 社稷 *she ji*  
 gold and jade imperial tallies and seals 金玉符璽 *jin yu fu xi*  
*gong*: a title of nobility usually translated as Duke 公 *gong*  
 good cause 理 *li*  
 government runner 吏卒 *li zu*  
 governors-general and governors 都撫 *du fu*  
 Grain Measurers 門級 *dou ji*  
 granary—[a place where] rice and grain are collected 倉 *cang*  
 Grand Minister 大臣 *da chen*  
 Great Sacrifice to the god of the heaven and the god of the earth 天地大祀 *tian di da si*  
 Great Sacrifice to the god of the land and the god of grain 社稷大祀 *she ji da si*  
 guardians 主守 *zhu shou*  
 head of a bao (1000 households) which constituted a security group (see Hsiao 26-31) 主保 *zhu bao*  
 head of the Court of the Imperial Stud 太僕寺官 *tai pu si guan*  
 head of the district courier station 縣鋪長 *xian pu zhang*  
 head official (Art. 74) 正官 *zheng guan*  
 head official (Art. 11) 長官 *zhang guan*  
 heavy silk 紬絹 *chou juan*  
 high treason 謀大逆 *mou da ni*  
 hired servant 工人 *gong ren*  
 honourable people 良民 *liang min*

- hou*: a title of nobility usually translated as Marquess 侯 *hou*  
 household head 家長 *jia zhang*  
*hu*: a measure used for grain or rice (equivalent to five *dou* or pecks) 斛 *hu*  
 illegally obtained property 贓 *zang*  
 Imperial Bodyguard (Hucker) 宿衛 *su wei*  
 Imperial Bridge—the bridge for the Emperor at the Tiananmen [gate] to the Imperial City 禦橋 *yu qiao*  
 imperial documents 制書 *zhi shu*  
 Imperial Palace 宮殿 *gong dian*  
 imperial rescript 聖旨 *sheng zhi*  
 imperial storehouse 內府 *nei fu*  
 Imperial Way—the road south from the southern gate of the Forbidden City that led to the Tiananmen [gate] 禦道 *yu dao*  
 inappropriate person (Art. 52) 非其人 *fei qi ren*  
 inferior official 卑官 *bei guan*  
 inferior (relative)—a relative of the lower generation 卑 *bei*  
 [informal] receipt 票批 *piao pi*  
 inheritable title 襲蔭 *xi yin*  
 insect poison. This possibly refers to a poison supposed to be produced by placing many poisonous insects in a container and letting them devour each other: the survivor is poisonous indeed 蠱毒 *gu du*  
 instrument for the entire heaven—an armillary sphere 渾天儀 *hun tian yi*  
 interior (women's) quarters 閨門 *gui men*  
 interrogate and put to the question 鞫問 *ju wen*  
 ivory screen of the inner imperial residence—the entrance to the innermost quarters of the Emperor's residence while he was travelling 內營牙帳門 *nei ying ya zhang men*  
 jail guard 獄卒 *yu zu*  
 jailers 禁子 *jin zi*  
*jian shi*: a treatise or commentary going back to the Ming (see Bodde & Morris, 71-2) 箋釋 *jian shi*  
*juan*: a type of raw silk 絹 *juan*  
 junior community head 小里長 *xiao li zhang*  
 label 題寫 *ti xie*  
 land tax 賦 *fu*  
 law—sometimes, code 律 *lü*  
*li*: Chinese mile (about 1/3 English mile) 里 *li*  
*Li*: the Zhou Li or Rites of Zhou, q.v. 禮 *Li*  
 make offerings to the sacred bird (as indicated in text, a sort of planchette or sand table on which the spirit can write messages) 扶鸞 *fu luan*

manager of herds 典牧官 *dian mu guan*  
market supervisor 市司 *shi si*  
Mattreya Buddha 彌勒佛 *Mi Le Fu*  
memorialize 奏 *zou*  
military commandant 統兵將軍 *tong bing jiang jun*  
military commander 提鎮 *ti zhen*  
military Exile (see Bodde and Morris, 87-91) 充軍 *chong jun*  
(military exile to a) near place (2000 *li*) 附近 *fu jin*  
(military exile to a place) beyond the frontiers 邊外 *bian wai*  
(military exile to the) extreme frontier (4000 *li*) 極邊 *ji bian*  
(military exile to the) far frontier (3000 *li*) 邊遠 *bian yuan*  
(military exile to the) malarial regions (5000 *li*) 煙瘴 *yan zhang*  
(military exile to the) near frontier (2500 *li*) 近邊 *jin bian*  
(military exile to the) sea-coast (see Bodde and Morris, 88) 沿海 *yan hai*  
military standards (used to signal to troops) 號帶 *hao dai*  
miscellaneous offence. There are two meanings: one refers to the offences treated in Arts. 376-86; the other refers to those offences which would normally be punishable with death but are instead punishable with five years of authorized penal servitude (see Bodde and Morris, 82-3) 雜犯 *za fan*  
monopolizing the market 把持行市 *ba chi hang shi*  
*mou* (or *mu*): Chinese area measure (6.6 *mou* = 1 acre) 畝 *mu*  
natural mother 親母 *qin mu*  
newly appointed official 代官 *dai guan*  
non-manifest theft. See also: steal stealthily 竊盜 *qie dao*  
not in accordance with the Way 不道 *bu dao*  
not on the government payroll 無祿 *wu lu*  
notification—a form of imperial decree 諭勅 *yu chi*  
obtain wind—suffer convulsions or paralysis (Art. 303) 得風 *de feng*  
obtains the property of another by making a false claim to it (by using only deceitful schemes and traps and not force) 誑賺局騙拐帶 *kuang zhuan ju pian guai dai*  
officer with special responsibility in this regard. A military officer below the squad leader (q.v.) who is immediately in charge of the men 本營專管官吏 *ben ying zhuan guan guan li*  
office of tax collector 稅務 *shui wu*  
official having jurisdiction 當該官司 *dang gai guan si*  
official title received by imperial gift because a son or grandson is an official 封贈官 *feng zeng guan*  
the officials in charge of courier stations 鋪司 *pu si*  
[officials and clerks in the] same [government] service 同僚 *tong liao*  
officials who are personal attendants of the Emperor; officials who have personal access to the Emperor in the course of their work 近侍官員 *jin shi guan yuan*

on the basis of 以 *yi*  
[one who is] directly responsible for the offence 正犯 *zheng fan*  
ordinary person 凡人 *fan ren*  
ordinary people 常人 *chang ren*  
overseers of work 監工官 *jian gong guan*  
Palace Guard 守衛 *shou wei*  
partial receipt—a receipt for a partial payment to the government; it is unsealed 硃鈔 *zhu chao*  
pasturage director 牧長 *mu zhang*  
penal servitude 徒 *tu*  
penalty is the same 罪同 *zui tong*  
period—1/100th or 1/96th of a day (see Art. 41) 刻 *ke*  
person in charge 主司 *zhu si*  
person in charge of the marriage—usually the father, but it could be his elder brother if the father is dead, or the mother, or the widow of the elder brother, etc. Marriages were arranged between the persons in charge of the marriage in the two families (see Art. 117) 主婚 *zhu hun*  
person of high rank—'the first degree of [hereditary] nobility as well as the third rank and above of civil and military officials on active duty and the second rank and above of [officials] who are without assignments' (Art. 3.7) 貴 *gui*  
person who is guilty by implication 被累人 *bei lei ren*  
persons of influence 豪民 *hao min*  
persons outside Chinese civilization 化外人 *hua wai ren*  
place of serving penal servitude 配所 *pei suo*  
platoon leaders 把總 *ba zong*  
plot—act of two or more persons 謀 *mou*  
postal relay station 驛傳 *yi chuan*  
post-guard 鋪兵 *pu bing*  
powerful households 有力之家 *you li zhi jia*  
prefecture 府 *fu*  
principal 首 *shou*  
private offence—'all offences which are not the result of some public matter but which are committed for oneself' (Art. 8) 私罪 *si zui*  
proclamation—a written imperial decree 詔 *zhao*  
provincial administration commission 布政司 *bu zheng si*  
(provincial) governor 巡撫 *xun fu*  
public offence—'all matters which are not related to the individual[s] interest but which relate to a public matter and must be punished' (Art. 7) 公罪 *gong zui*

punish for receiving consideration and causing perversion in the law according to the heavier penalty, that is, punish for whichever penalty is heavier—the one in Art. 47 for example, or the one in Art. 344 依枉法縱重論 *yi wan facong zhong lun*  
[punish with] the same penalty 同罪 *tong zui*  
purification and fasting 齋戒 *zhai jie*  
ratings fulfilled—'signifying that an official has remained in a post through three triennial merit ratings (*k'ao*), i.e. for a total of three years and then he was relieved of his duties and expected to report to the Ministry of Personnel (*li-pu*) for possible reassignment' (Hucker 278) 考滿 *kao man*  
rebellion 謀反 *mou fan*  
receive the case [accept jurisdiction] 受理 *shou li*  
receive consideration and cause perversion of the law 受財枉法 *shou cai wang fa*  
records for the receipt of money and taxes in kind 稅糧由帖 *shui liang you tie*  
redeem the penalty provided for an offence in the law by making a monetary payment 納贖 *na shu*  
regional military commander 總兵官 *zong bing guan*  
register 簿籍 *bu ji*  
registration (for taxes, military service, etc.) 籍 *ji*  
Regulations on Administrative Punishments 處分則例 *chu fen ze li*  
relative outside the five degrees of mourning 袒免 *tan mian*  
[relative] who is younger or of inferior rank, i.e. of a generation below that of the principal, such as a father's brother's grandson, even though he is older in years 卑幼 *bei you*  
[relative] who is older or senior in rank, i.e. of a generation above that of the principal, such as a father's first cousin, even though he is younger 尊長 *zun zhang*  
relatives for whom one must wear mourning of one year 期親 *qi qin*  
[relatives] who [by law] may conceal each other's offences [Art. 32] 容隱 *rong yin*  
relieved of their duties, i.e. replaced—in reference to officials 得代 *de dai*  
rescript (imperial sealed written order) 旨 *zhi*  
resign office 致仕 *zhi shi*  
responsibility by implication—as the superior who is liable for acts of his subordinate 連累 *lian lei* or 干連 *gan lian*  
retain in office (though convicted of an offence) 留任 *liu ren*  
Rites of Zhou (*Zhou Li*): a text on the organization of government and the rites purporting to be from the Zhou Dynasty but probably W. Han (c. A.D. 220) 周禮 *zhou li*  
rightful mother—father's official wife 嫡母 *di mu*  
sackcloth 承差 *cheng chai*

卷  
收

sales tax—translated as deed tax (q.v.) in the case of transfers of land 紵 *zhu*  
[salt or other] works or agencies 局所 *ju suo*  
sedan chairs and carriages [for the use of] the Emperor 乘輿車駕 *cheng yu che jia*  
senior tithing chief 主首 *zhu shou*  
seriously disabled—'blind in one eye or lame in one leg' (Art. 22) 廢疾 *fei ji*  
services [corvée labour] 役 *yi*  
settlement—a sealed receipt for full payment of taxes, etc. 通關 *tong guan*  
*Shen wu gate* (of the Forbidden City) 神武門 *shen wu men*  
seven acts that constitute grounds for repudiation of a wife: she has no son; she is wanton; she does not serve her parents-in-law; she talks too much; she steals; she is jealous and envious; she has a malignant disease 七出 *qi chu*  
several—three or more 眾 *zhong*  
*shi po*: a colloquial name for a female sorceress 師婆 *shi po*  
*si*: a type of thin silk 絲 *si*  
silk batting 絲棉 *si mian*  
silk gauze 綾 *ling*  
slave 奴僕 *nu pu*  
son who should inherit a certain dignity 應合襲蔭子 *ying hexi yin zi*  
son of the official wife 嫡子 *di zi*  
special law for an action 本法 *ben fa*  
squad leaders 管隊 *guan dui*  
steal stealthily. See also: non-manifest theft 竊盜 *qie dao*  
structure for the great sacrifice—the elevation on which the altar was placed 邱壇 *qiu tan*  
sub-statute—the more particularized rules that appear under the articles of the *lü* (sometimes called codified precedents) 例 *li*  
summon officials to appear; see also bring in for interrogation 勾問 *gou wen*  
*suo yan*: a treatise(?) 瑣言 *suo yan*  
superior sacrifice 中祀 *zhong si*  
supervisors 監臨 *jian lin*  
supervisory grain officials and chief clerks 提調部糧官吏典 *ti diao bu liang guan li dian*  
supervisory official 提調官 *ti diao guan*  
supervisory official or clerks 提調吏典 *ti tiao li dian*  
surveillance commission 按察司 *an cha si*  
symbol of authority 符驗 *fu yan*  
*tai bao*: As used here a colloquial name for a male sorcerer 太保 *tai bao*  
Tang Code Commentary 唐律疏議 *tang lu shu yi*  
[tax receipt] office 務場 *wu chang*

tea commission 茶局 *cha ju*  
tenant farmer 佃甲 *dian jia*  
those charged with river and lake affairs. See also: Fishing Tax office 河泊所 *he po suo*  
three impediments to repudiation of the wife: she has carried on three years of mourning (for her husband's parents); the husband was previously poor and they have become rich; the home from which she was married does not exist 三不去 *san bu qu*  
tithing chief 甲首 *jia shou*  
[to be] imprisoned to await the Autumn Assizes or the Court Assizes 監固 *jian gu*  
*tong zui*: the same penalty (Art. 39.1) 同罪 *tong zui*  
Total Penal Servitude—five years of penal servitude (see Bodde and Morris, 82–3) 總徒 *zong tu*  
transfer property 過割 *guo ge*  
transportation—'life exile at 1000 li' (Bodde and Morris, 83) 遷徙 *qian xi*  
treason 謀叛 *mou pan*  
treasury—place where money and textiles are collected 庫 *ku*  
Treasury Janitors 庫子 *ku zi*  
trespass—'Trespass means the non-manifest theft of property' [Art. 302] 侵 *qin*  
true offences—'these are all intentional offences' (Art. 16) 實犯 *shi fan*  
true official—official status received in the normal way and not by virtue of a descendant's status 正官 *zheng guan*  
usher 祇候 *zhi hou*  
village elder 耆老 *qi lao*  
*wang zhi*: a treatise 王治 *wang zhi*  
warden 提牢官 *ti lao guan*  
wardens and clerks in charge of the prison 司獄官典 *si yu guan dian*  
warder—official under the warden 獄官 *yu guan*  
warrant—an order originally on wood, but later also on paper, which gives the holder the power to carry out some act such as collecting taxes 信牌 *xin pai*  
the watch from 4.00–6.00 p.m. 申(時) *shen (shi)*  
wedding presents—the payments made by the groom's family to the bride's family 彩禮 *cai li*  
White Cloud Society 白雲宗 *bai yun zong*  
White Lotus Society 白蓮社 *bai lian she*  
written agreement 文約 *wen yue*  
written imperial order 制書 *zhi shu*  
written order of the Emperor 制 *zhi*  
wrongfully cultivates and sows 盜耕種 *dao geng zhong*  
Wu gate of the Forbidden City 紫禁城午門 *zi jin cheng wu men*  
Xi hua gate (of the Forbidden City) 西華門 *xi hua men*

*xuan-ji*: a device to show a portion of the heavens 璇璣 *xuan ji*  
yamen: residence of magistrate or other official office) 衙門 *yamen*  
younger (relative); a relative in the same generation who is younger 幼 *you*  
*yu-heng*: a device to show a portion of the heavens 玉衡 *yu-heng*  
*zui tong*: the penalty is the same 罪同 *zui tong*

with delay



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