

## Fourth Supplementary Article.

貪人吉壤將遠年之墳盜發者、子孫告發、審有確據、將盜發之人以開棺見尸律擬絞監候。

如非其子孫、又非實有確據之前人古塚、但因有土墩見人埋葬輒稱伊遠祖墳墓、勾引匪類夥告夥証、陷害無辜、審明、將爲首者照誣告人死罪未決律杖一百流三千里。爲從各照誣告爲從律科斷。

若實係本人遠祖之墳被人發掘盜葬、因將所盜葬之棺發掘拋棄者、照祖父母父母被殺子孫不告官司而擅殺行兇人律杖六十。

若盜葬者並無發掘等情、止在切近墳旁盜葬、而本家輒行發掘者、應照地界內有死人不報官司而輒移他處律科斷。如有毀棄屍骸、照地界內有死人而移尸毀棄律科斷。

若非係墳地、止在田地場園內盜葬、而地主發掘開棺見屍、仍照律擬絞。其不開棺見尸者各照本律減一等治罪。

如兩造本係親屬、其所侵損之墳塚棺槨屍骸與本身皆有服制者各照律內服制科斷。

» If some one, coveting another's burial ground which brings good luck (to the offspring), has fraudulently dug up a grave of ancient date, and the descendants of that dead person lodge a complaint against him with the magistrates, who, on investigating the case, find incontestable proofs of the crime, the perpetrator thereof shall be condemned to strangulation in accordance with the fundamental law against opening coffins and rendering visible the corpses therein contained, and be imprisoned until his sentence has been confirmed by the higher authorities (See the first fundamental article).

» Should there, however, be no offspring of that dead person, or no incontestable proofs exist that the old grave is really that of some person of former times, and it should appear that people, on seeing a burial performed in a place where there was a heap of earth, have pretended without good reasons that it was a grave of

a remote ancestor of theirs, bringing with them bad folks of the same sort as themselves to lodge a complaint in concert with them and to bear witness with them, for the purpose of plunging innocent folks into grief and trouble — in such a case, after the truth has been properly ascertained, the chief culprits shall be sentenced according to the law which provides for cases of false accusation against others when the sentence of death has not yet been executed, that is to say, they shall be punished with one hundred blows with the long stick and transportation for life to a distance of 3000 miles<sup>1</sup>. And their accomplices shall each be sentenced in accordance with the law which contains provisos against accomplices in false complaints.

»But, if the grave be really that of a remote ancestor of the party concerned, and this ancestor has been dug up by others and another corpse fraudulently buried in his place, — it then this second coffin be dug up (by the original owners of the grave) and cast away, they shall be punished with sixty blows with the long stick, in accordance with the law against sons or grandsons who, should their grandparents or parents be killed, do not enter a complaint with the authorities, but, taking the law into their own hands, slay the murderer.

大清律例 - art. 323-01

»Should the parties who have buried the corpse in a fraudulent manner not have unearthed the old corpse or done any damage to the same, but simply performed the burial in the immediate proximity of the tumulus, then the original owners shall, if they have dug out the second corpse without authorisation, be sentenced according to the fundamental law which provides against those who, when a person is found dead within the precincts of a place, do not inform the magistrates thereof, but arbitrarily transfer the corpse to another spot (sixth fundamental art.). And if thereafter the corpse or the skeleton be mutilated (by others), or cast away, they shall be sentenced according to the fundamental law which provides against those who, when a person is found dead within the precincts of a place, transfer the corpse to another spot, in consequence of which it is mutilated or cast away (see the sixth fundamental art.).

»If the fraudulent burial has not been performed in a burial ground, but simply in a field, meadow or garden, and the owner of this ground has dug up the grave, opened the coffin, and rendered the corpse visible, he shall be condemned to strangulation, in accord-

<sup>1</sup> Comp. Chapter 30 of the Code, § 誣告



ance with the fundamental law (art. I). But if he has not opened the coffin or rendered the corpse visible, his sentence shall be reduced by one degree of punishment, likewise in accordance with the fundamental law (art. I).

» If both parties are relations by consanguinity or affinity, so that there exist mourning ties between the corpse in the damaged grave or coffin and the perpetrators, each one of the latter shall be sentenced in accordance with the gradations of mourning as fixed by law.

Ninth Supplementary Article.

凡盜葬之人、除侵犯他人墳塚發掘開棺見屍者仍各按照律例治罪外、如因盜葬後被地主發掘棄毀、無論所葬係尊長及卑幼屍柩、俱照強占官民山場律杖一百流三千里。

如於有主墳地及切近墳旁盜葬、尙無侵犯、致被地主發掘等情者照強占山場滿流律量減一等、杖一百徒三年。

若止於田園山場內盜葬者照強占山場滿流律量減二等、杖九十徒二年半。

仍勒限一個月押令犯屬遷移、逾限不遷即將犯屬枷示、候遷移日釋放。其唆令盜葬之地師訟師與本犯一體治罪。

» Whenever people have fraudulently buried a corpse — apart from the cases when they have encroached upon the grave of another, dug it up, opened the coffin, or rendered the corpse visible, for which crimes they are to be punished according to the fundamental and supplementary articles — if then, after that burial has been performed, the grave be dug up by the owner of the ground and the corpse thrown away or mutilated, it shall not be taken into consideration whether the buried corpse is that of a superior or senior family member (of the buriers) or an inferior or junior relation of theirs, but to all of them the fundamental law shall be applicable, which contains provisos against forcible appropriation of grounds which are reserved by the Government or belong to the people (Comp. the fifth supplementary article), viz. one hundred blows with the long stick shall be inflicted, followed by a lifelong banishment to a country three thousand miles away.

→ » Should such a fraudulent burial have been performed in burial ground which is owned by another, or in the close proximity of a tumulus without incroaching upon the grave itself, then, in case the owner of the ground has dug up the (new) grave and has acted as above, the same law which demands transportation for life for forcible appropriation of grounds shall be applicable (to the buriers), but with a reduction of one degree, so that the punishment shall amount to one hundred blows with the long stick and banishment for three years.

» And if they had only fraudulently buried the dead in a field or in an ordinary plot of ground, again the same law shall be applicable to them, but with a reduction of two degrees, so that they shall receive ninety blows with the long stick and be banished for two years and a half.

» Besides, (in each of these three cases) the family of the offenders shall be enjoined to remove the remains within one month, and if they do not do so, they shall be placed in the cangue, no more to be released from it until the day on which the order is executed. The geomancers and the advocates who have induced the

culprits to perform the fraudulent burial, shall be punished together with the chief offenders.