

For a person eighty years of age, the discovery of the crime and the sentencing are linked together. The principle is to follow the lighter rule⁴² and sentencing is according to the law at the time of discovery.

However, the principle is different for the infirm and the aged. In many cases infirmity appears only after the crime has been discovered. Thus the sentence is only provisional and the basic circumstances must be looked into. If the person was already suffering before the time of discovery and has become infirm at the time of sentencing, then the same law on infirmity is followed.

But if at the time of discovery, the person was not infirm but has become infirm by the day of sentencing, there is an investigation. If the infirmity was caused deliberately, the sentence is according to the time that the offense was committed. But if there was real suffering, the decision follows the principle on infirmity.

ARTICLE: If within the term of years of penal servitude, a person becomes aged or infirm, such cases are also treated as in this article.

SUBCOMMENTARY: If a person sixty-nine years of age or less is sent into penal servitude and labor and in two or three years reaches age seventy without the term of labor being complete, or if a person was not infirm at the time of being sent into labor, but becomes disabled during the term of labor, both cases follow the law stated above and redemption by payment of copper is allowed. Therefore, it is stated that if within the term of penal servitude a person becomes aged or infirm, such cases are also treated as in this article.

Further, a year of penal servitude is calculated as three hundred sixty days.⁴³ Where redemption by payment of copper is required, it is twenty *chin* of copper. Thus one *chin* of copper cancels eighteen days. If the calculation of the remaining labor is not a full eighteen days, this is not a full *chin*. If the amount to be paid is not complete, in such cases it is proper that the criminal be exempted from punishment and released.

[6b] ARTICLE: If a person was a youth at the time when the offense was committed and has become older when the crime is discovered, the sentence is according to the article on youth.

SUBCOMMENTARY: If a person commits a capital offense when seven years of age and the crime is discovered when the person is eight years of age, the death penalty is not sentenced. If someone kills a person when ten

⁴²*Ch'ü* 曲 should be read *tien* 典, following the SPTK edition.

⁴³See translation Chapter II, note 100.

years of age and the crime is discovered when he is eleven years of age, then he is permitted to send up a memorial. If a person pilfers or robs when fifteen years of age and the crime is discovered when the person is sixteen years of age, the section on redemption by payment of copper is followed. This is called sentencing according to the article on youth if a person has committed an offense while a youth and the crime is discovered when the person has become older.

Article 32

Illicit Goods that Involve Both Parties in Offenses

ARTICLE: 32.1a—All cases of illicit goods that involve both parties in offenses,

COMMENTARY: The calculation of the value of the illicit goods determines the punishment.

SUBCOMMENTARY: Officials who take bribes, no matter whether they subvert the law or do not subvert the law, or take goods and articles in the area under their supervision (*shou so-chien-lin ts'ai-wu* 受所監臨財物)⁴⁴ are [sentenced]⁴⁵ for illicit goods gained through malfeasance. According to the law, the offense includes the giver of the goods, and each is punished. This is called illicit goods that involve both parties in offenses, and means that the calculation of the value of the illicit goods determines the punishment.

ARTICLE: and forbidden articles which it is an offense to possess, will have such goods and articles confiscated by the state.

⁴⁴Here again the general principle differs from the provisions of the specific articles involved. Article 138; Deloustal 140, punishes officials who take bribes, no matter whether or not they subvert the law, more heavily than Article 389, which covers illicit goods gained through malfeasance. Article 140, which deals with officials who take goods and articles in the area under their supervision also makes no mention of the lighter penalties given in Article 389. Hence Article 389 is not applicable here for two reasons. The first is that the heavier punishment prescribed in the *Code* is always applicable when two articles cover any offense. The second is because where the general principles section and the specific article differ, the specific article takes precedence. See Article 49.

⁴⁵The Tai-nan-ko edition has a blank here. The SPTK edition reads *tsui* 罪, which does not make sense. *Lun* 論 "to sentence" would be the most likely reading here, but no edition gives it.

SUBCOMMENTARY: This refers to such things as armor, crossbows, spears, halberds, banners, ensigns, pennons, and flags,⁴⁶ as well as forbidden books⁴⁷ and imperial and official seals, which private households are required not to possess.⁴⁸ These are called forbidden articles that it is an offense to possess. Illicit goods that involve both parties in offenses and such articles mentioned subsequently will all be confiscated by the state.

[7] COMMENTARY: 32.1b—If there is a robbery of articles that were obtained by robbery, the doubled amount of illicit goods repaid is confiscated by the state.

[7a] SUBCOMMENTARY: If B robs A of articles which are then in turn robbed by C, both parties are required to return double the amount of the illicit goods to the owner. Thus A gets a double repayment from B but he does not also get C's repayment. B, however, was the original robber and robbers may not benefit from illicit goods. Therefore, the doubled amount of illicit goods repaid is confiscated by the state. If there is an informer who should be rewarded, the reward given is according to the statute.⁴⁹

QUERY: If there is private casting of coins and the crime is discovered, the tools, copper, and coins are seized;⁵⁰ or if there is a violation of the law in the slaughter of horses, oxen, or other meat animals,⁵¹ for crimes such as these neither the *Code* or the *Statutes* states whether confiscation

⁴⁶Those who had private possession of weapons were punished with a minimum of one and one-half years of penal servitude. Depending upon the number and type of weapons, the sentence could reach strangulation. See Article 243.

⁴⁷Article 110; Deloustal 117, defines forbidden books as those dealing with astronomy, prognostication, and military strategy. Possession of any of these was punished by two years of penal servitude. Article 37 expands the category of forbidden books to include official books and papers, from which I infer that the *Code* was not allowed to be in general circulation.

⁴⁸The penalties for possession of these seals ranged from life exile to decapitation, depending upon their being imperial or official, stolen or forged. See Articles 362–364; Deloustal 514–516.

⁴⁹Niida, *Statutes*, p. 729. The reward depended upon how much of the goods were recovered.

⁵⁰All of the crimes mentioned here are, in fact, covered in the specific articles section of the *Code*. The private casting of coins is particularly interesting, since we have both the original edict and what seems to be a quote from the regulation of 737 on this subject. See Twitchett, "Tunhuang Fragments of the T'ang Regulations," pp. 377–378. For a general discussion on the casting of coin in T'ang times, see Penelope A. Herbert, "A Debate in T'ang China on the State Monopoly on Casting Coin." Article 391 punishes the private casting of coins by life exile to 3,000 *li*, with lesser penalties where the tools for such casting had not yet been used or not yet made.

by the state is provided for or not.

REPLY: Private households may possess meat and coins. The *Code* and the *Statutes* do not provide for confiscation by the state. However, such tools and coins may not be used. They are destroyed, returned to the owner, and the crime is sentenced according to the law.

As for casting of coins, there is a separate regulation and sentencing should follow the regulation.⁵² Cases of other articles where there are separate regulations currently to be followed which counteract the *Code* also follow this ruling.

ARTICLE: 32.2—In cases of taking or giving without consent,

COMMENTARY: Giving with consent, however, is not punished.

SUBCOMMENTARY: Taking or giving without consent refers to such crimes as threats,⁵³ fraud,⁵⁴ forcing purchase, gaining excessive profits through forcing the market,⁵⁵ and forcing demands [for taxes, and so on].⁵⁶ Giving with consent, however, is not punished refers to leaving office and receiving food and gifts [through donations, and so on] from the literati and common people within the jurisdiction of the old office, or supervisory officials getting excessive profits within their sphere of jurisdiction by fair trading practices, or to hiring a person to make a true accusation to the court of another person's crime. These are all cases where the taker has not required goods [7b] but they have been given. None of these is punished.

ARTICLE: the illicit goods that have been extorted are all returned to the

⁵¹On the theory that horses were needed for warfare and oxen for tilling, the *Code* punishes their intentional killing by one and one-half years of penal servitude. See Article 203.

⁵²The regulation broadens the group to be punished if they have knowledge of the crime to include the family head, members of the *pao* 保 group, and local headmen.

⁵³Obtaining goods by threats is punished as comparable to robbery, with the punishment increased one degree. Thus the punishment was sixty blows with the heavy stick for goods worth one *p'i* of silk. See Article 285; Deloustal 435.

⁵⁴Fraud is also sentenced as comparable to robbery. See Article 373.

⁵⁵Article 142 States that forcing the market is using fear or force to cause selling. This is punished by fifty blows with the light stick. If this results in excess profits, such profits are sentenced according to the section on subverting the law in Article 138; Deloustal 138. The penalty is severe, one hundred blows with the heavy stick for goods worth one *ch'ih* of silk, increasing to strangulation for goods worth fifteen *p'i* of silk. See also the discussion in Twitchett, "The T'ang Market System," particularly the appendix where other articles and statutes dealing with the markets are translated.

owner.

SUBCOMMENTARY: Though the punishments for extortion by force and extortion without the use of force are different, the illicit goods are returned to the owner in both cases.

Reference to all means that the illicit goods that are taken or given without consent, or are mentioned below, are all returned to the owner.

ARTICLE: 32.3a—In cases where the articles have been registered to be collected, even though punishment should have already been administered, upon the arrival of an amnesty, if the goods have not yet come into the hands of the authorities, such goods will not be confiscated in accordance with the amnesty.

SUBCOMMENTARY: Articles that have been registered to be collected refer to confiscation by the state of the household and wealth of persons who have plotted rebellion or great sedition.⁵⁷ After the arrival of an amnesty, even though punishment should already have been administered, if the criminal's articles have not yet come into the hands of the authorities, such goods will not be confiscated, in accordance with the amnesty.

If such articles have already come into the hands of the authorities in that area and are under their control, they will not be released and exempted from confiscation.

ARTICLE: 32.3b—If the offense has not yet been sentenced and punishment administered, even though the articles have been sent to the government office, if they have not yet been disposed of, they will not be considered to have come into the hands of the authorities.

SUBCOMMENTARY: If the crimes of rebellion or sedition have not yet been sentenced and punishment administered, or if the criminal has already been sentenced but is still alive, even though the articles have already been sent to the government office, if they have not yet been disposed of, such goods will not be confiscated in accordance with the amnesty.

⁵⁶Article 145 sentences forced demands under the provisions of Article 140; Deloustal 140, concerning supervisory officials who take goods and articles in the area under their supervision. The penalties range from forty blows with the light stick for goods worth one *ch'ih* of silk to life exile to 2,000 *li* for goods worth fifty *p'i* of silk.

⁵⁷Certain of the relatives of persons who commit these crimes are enslaved and their goods and real property are confiscated by the state. See the discussion in the third part of introduction Chapter II and part 1 of Article 6.

[8a; 8] ARTICLE: 32.4—Cases in which household members have been collectively prosecuted, even though they have already been sent into slavery, if the criminal is permitted exemption from punishment, they will also be exempted from punishment.

SUBCOMMENTARY: This refers to the households of those who commit rebellion or sedition being collectively prosecuted and enslaved by the state. Should the criminal later because of imperial grace be permitted exemption from punishment, those who have been collectively prosecuted, even though already sent into slavery, will also be released and exempted from punishment.

The criminal's slaves are considered the same as wealth and goods and the law on persons collectively prosecuted being exempted from punishment is not followed.

QUERY: Now those collectively prosecuted being allowed imperial grace is because the criminal has been permitted exemption from punishment. If the grace does not exempt the criminal from punishment, is the law on those collectively prosecuted also having exemption from punishment applicable or not?

REPLY: Plotting rebellion and great sedition are criminal to the utmost degree of censure and extermination. Such crimes defile the whole family and property and the eradication of evil must reach to the roots. Thus the criminal may not be amnestied and neither will those who are collectively prosecuted be pardoned. The fitness of rejecting or allowing pardon for those who are collectively prosecuted always takes the criminal as a measure.

Where plotting treason is already under way,⁵⁸ or three members of one household who have not committed a capital crime have been killed, or someone has been dismembered,⁵⁹ even though collective prosecution extends to the members of the criminal's household, the abomination is not considered the same as committing rebellion or sedition. Further, the text of the article is especially clear that those who are collectively prosecuted for rebellion or sedition are sentenced the same as those who violated the ten abominations, and are not permitted petition, reduction of punishment, or redemption by payment of copper.⁶⁰ They are considered to be the same as those who commit crimes

⁵⁸See Article 248; Deloustal 410.

⁵⁹See Article 259; Deloustal 419. Fewer persons are involved in collective prosecution.

⁶⁰The rights of petition, reduction of punishment, and redemption by payment of copper are covered in Articles 9, 10, and 11; all of which specify that they are not applicable in cases involving violation of one of the ten abominations.

punished by the five kinds of life exile and are disenrolled and sent into exile according to the law. Those collectively prosecuted and exiled for life for other offenses are permitted reduction of punishment and redemption by payment of copper and are not disenrolled.

Even though it is stated that cases punished by life exile permit reduction of punishment and redemption by payment of copper, it is clear that those involving collective prosecution for rebellion and sedition are not the same, and an amnesty does not pardon cases of violation of the ten abominations. If those who have been collectively prosecuted for crimes other than rebellion or sedition are allowed imperial grace, they are exempted from punishment. The reason is that they themselves have not committed one of the ten abominations, nor are they members of a household which has been involved in rebellion or sedition.

Article 33

[8b] Offenses Involving Illicit Goods

ARTICLE: 33.1a—All cases of offenses involving illicit goods in which the original illicit goods are still in existence⁶¹ return them to the government or owner.

COMMENTARY: If there has been an exchange for other goods or natural increase, the illicit goods are still considered to be in existence.

SUBCOMMENTARY: There are six types of original illicit goods mentioned in the *Code*. These are: 1) robbery by force, 2) robbery by stealth, 3) taking bribes and subverting the law, 4) taking bribes without subverting the law, 5) taking goods and articles in the area under one's supervision, and 6) illicit goods gained through malfeasance. All other articles involving illicit goods can be subsumed under these six categories in determining punishments.⁶²

Now in cases involving such offenses, if the original illicit goods are in existence and have not yet been expended, they are returned to the

⁶¹A distinction is to be made between original illicit goods in existence and illicit goods. Original illicit goods are those listed in the subcommentary immediately below. But illicit goods is also the term used for gain resulting from officials using government-owned horses, carts, and so on, for their own purposes, as described later on in this article.

⁶²The specific offenses referred to here are covered in Articles 281, 282, 138, 140, and 389; Deloustal 428, and 140. "All other articles involving illicit goods can be subsumed under these six categories. . . ." means that other articles state that they are sentenced as or comparable to one of these six categories.

government or the owner.

Exchanged for other goods refers to such cases as the original illicit goods, a mule, having been traded for a horse. Natural increase refers to such cases as a slave giving birth to a child, or a mare bearing a colt.

QUERY: If a robber takes another's goods and articles and through trade or loan gets a profit, is this considered the same as natural increase or not?

Or, if the illicit goods originally consisted of a person or a domestic animal which passed through many hands, some knowing the circumstances and some not, what is the decision regarding the natural increase?

REPLY: When the commentary on this article speaks of natural increase, it basically refers to such things as natural increase through giving birth. But if there is profit or increase from trade or loans, this is due to the efforts of the later possessor [9] and not the original owner. Since goods do not breed and give birth, [9a] they do not have the same limits as natural increase and the profit obtained goes to the later possessor.

Where those who had temporary possession of a person or a domestic animal knew the circumstances, the natural increase is returned to the owner. If they did not know the circumstances, it goes to the later possessor.

FURTHER QUERY: If a person knows a slave to be illicit goods and yet deliberately buys her for his own pleasure, as a result of which she gives birth to a child, to whom should the child go?⁶³

REPLY: If a person knows that a slave is illicit goods, there originally should not have been a trade. Deliberately buying her was a violation of the law and the intent was licentious. Children born of a slave who is illicit goods cannot be commoners, they are only natural increase through birth and according to this article are returned to their owner together with the mother.

ARTICLE: 33.1b—If the illicit goods have already been expended, and the punishment is death or sending into life exile, they need not be repaid.

⁶³A certificate was required for the sale of a slave, which had to be drafted in accordance with the official verification from the authorities of her place of origin. Thus it would be likely that a potential buyer would know the status of a slave before he bought her. See Niida, *Statutes*, p. 720; Twitchett, "The T'ang Market System," p. 246.

COMMENTARY: Cases where there has been a separate offense punished by life exile or where the person has died are considered to be the same.

SUBCOMMENTARY: Offenses for which a person is sentenced to death or to be sent into life exile because of illicit goods are very serious. In most cases the family property has been broken up and the illicit goods already expended. There is pity because of the sentence to life exile or death and the illicit goods need not be repaid.

If a case has not yet been memorialized and signed by the emperor and an amnesty gives exemption from punishment, the illicit goods are repaid according to the law.⁶⁴ If the emperor has already signed and there is an amnesty through imperial grace, it is considered the same as this principle on exemption from repayment.

The commentary states that cases where there has been a separate offense punished by life exile or where the person has died are considered to be the same. This refers to persons who have committed crimes punished by sending into life exile other than for illicit goods or where the person was not executed but died from other causes. Where the illicit goods from the original offense have been completely expended, such cases also follow this principle on exemption from repayment.

ARTICLE: 33.1c—All other illicit goods are to be repaid.

COMMENTARY: 33.1d—Cases of robbery are doubly repaid.⁶⁵

[9b] SUBCOMMENTARY: Aside from cases of a person's death or of having already been sent into life exile, no matter whether the illicit goods are in existence or already expended, all others come within the limits for repayment. Therefore it is stated that all other illicit goods are to be repaid.

Cases of robbery are to be doubly repaid means that cases of robbery because of desire for goods are more serious. Therefore, it is ordered that there be double repayment, which means that for such a robbery as of goods worth one *ch'ih* of silk, two *ch'ih* are repaid.

ARTICLE: 33.2—In cases where the illicit goods are calculated from use

⁶⁴This refers to a capital case that would have to be memorialized to the emperor. See the discussion of review in the seventh part of introduction Chapter II.

⁶⁵However, crimes sentenced as comparable to robbery by force or by stealth do not require double repayment of goods. See Article 53.

or rent, there need be no repayment.

SUBCOMMENTARY: Use refers to making unauthorized use of labor in the area under one's supervision as well as borrowing such things as carts and horses. The use is calculated as three *ch'ih* of silk for each day and is sentenced under the section on taking goods and articles in the area under one's supervision.⁶⁶

Rent refers to such things as grinding mills, warehouses, wholesale stores, and boats. Sentence is calculated according to the value of the rent. Thus, illicit goods that are calculated⁶⁷ from use or rent originally were not real articles, and even though there be no amnesty need not be returned. Other articles regarding use and rent all follow this article.

[10] ARTICLE: 33.3a—In cases of robbery, fraud, and taking bribes and subverting the law, even though there be an amnesty or a decrease of sentences, the original illicit goods must still be repaid.

SUBCOMMENTARY: This means that in three types of cases: robbery, fraud, and taking bribes and subverting the law, even though there be an amnesty or a decrease of sentences, the original illicit goods must still be repaid either to the government or the owner. However, cases of robbery are exempted from double repayment. Therefore it is stated that the original illicit goods must still be repaid. This refers to crimes discovered before the amnesty.

If the crime is discovered after the amnesty, the existent illicit goods are seized and must be repaid according to the Articles on Assaults and Accusations.⁶⁸

[10a] QUERY: In cases of taking bribes and subverting the law, even though there be an amnesty, the original illicit goods must still be repaid. It is not yet known if these illicit goods should be returned to the government or the owner. A clear principle must be established.

REPLY: The principle on illicit goods that involve both parties in offenses provides for confiscation. If later there is a confession and the crime is pardoned, the original illicit goods must still be returned according to the law. Other illicit goods will be taken and confiscated.⁶⁹ What

⁶⁶Article 140 punishes this crime by forty blows with the light stick for use calculated worth one *ch'ih* of silk, rising to life exile for use calculated worth fifty *p'i* of silk.

⁶⁷*Hsü* 許 should be read *chi* 計, following the SPTK edition.

⁶⁸This follows Article 353.

⁶⁹Article 32, provides for confiscation of the illicit goods by the state since both parties are involved in the offense.

question is there about the law?

ARTICLE: 33.3b—If other illicit goods that are no longer in existence, as well as copper when redemption is allowed, have not been sent to the government but the time limit for payment has not yet passed, in both cases there is a decrease of sentences or pardon according to the amnesty.

SUBCOMMENTARY: Other illicit goods that are no longer in existence refer to illicit goods that have already been completely expended before the amnesty, or illicit goods that cannot be exchanged for other goods or produce natural increase. These are illicit goods that are no longer in existence.

Copper when redemption is allowed refers to payment of copper for the offense that was committed. According to the statute, the divisions and grades of payment each have a time limit.⁷⁰ If the copper has not been sent to the government but the time limit for payment has not yet passed, there is a decrease of sentences or pardon according to the amnesty. But if the copper has not been sent to the government and the time limit for payment has been exceeded, the case does not come within the limits of exemption from punishment.

Exceeding the time limit for payment without sending to the government only refers to copper for redemption of crimes, since there has never been a time limit set for return of other illicit goods. When an amnesty has been promulgated, the criminals in such cases are released and exempted from repayment.

Where a crime has been committed and redemption must be made by payment of copper, the copper must be sent to the government within the time limit for payment. If the time limit is exceeded without the copper being received, the amnesty does not pardon the criminal. Therefore, when it is stated that the time limit has been exceeded without the copper having been sent to the government within the time limit for payment, this text only concerns redemption by payment of copper and does not establish a rule for other illicit goods.

QUERY: If a person who is allowed redemption by payment of copper is away from his native place and is there sentenced to punishment, a dispatch is sent to his original place of registration so that the copper can be paid. It is not yet known whether the time limit for payment is from the date that the dispatch arrives in his native place, or from the date of the sentence.

⁷⁰See translation Chapter I, note 45.

[10b] REPLY: According to the statute: "Those holding office are exempted from taxes and labor service."⁷¹ However, such exemption starts only from the day that the tally of exemption arrives.⁷² Where persons who can make payment of copper have been sentenced or are in prison far away from their native place, even though they were released, they would have no copper with which to pay. So a tally is sent to their native place to receive payment. The time limit for payment must be according to the day of the tally's arrival. If it were fixed at the particular place of sentencing, why trouble further to send a dispatch to the criminal's native place?

Article 34

Assessing the Value of Illicit Goods

ARTICLE: 34.1—All cases of assessing the value of illicit goods do so according to the value of the articles at the time and place of the offense in terms of the set price of the highest grade of silk.⁷³

SUBCOMMENTARY: Illicit goods refer to illicit goods taken by the criminal. Assessment is always according to the value of the highest grade of silk at the time and place of the offense. In accordance with the statute: "Three grades of prices [are fixed for each commodity] for ten-day periods in every month."⁷⁴ The assessment of the value of the articles during the ten-day period in which the offense took place decides the punishment in terms of the price of the highest grade of silk during that ten-day period.

For example, a person commits a robbery of salt in Pu Prefecture and when the crime is discovered in Sui Prefecture, the salt has already been used. In accordance with the statute,⁷⁵ an assessment of the value from a

⁷¹Niida, *Statutes*, p. 680; Twitchett, *Financial Administration*, pp. 144-145. The statute goes on to say that even before the certificate of appointment arrives, an official's credentials may be verified and he be allowed exemption.

⁷²The tally was an important means of identification used extensively by the T'ang bureaucracy. It was in two sections that matched, so that the holder of one half was identified by fitting his section together with the other half. See the detailed study by des Rotours, "Les Insignes en deux parties."

⁷³This clause has been translated in Twitchett, "The T'ang Market System," p. 246. Historically, commodity money has played an important role in the Chinese currency system. Though copper cash was also popular in the T'ang period, whenever the *Code* requires estimates of value to be made, the standard is silk. See the discussion in Lien-sheng Yang, *Money and Credit in China, A Short History*, pp. 16-19.

⁷⁴Niida, *Statutes*, pp. 716-718; Twitchett, "The T'ang Market System," p. 245.

⁷⁵*Ibid.*

distance is made taking the average set price of salt in Pu Prefecture [11] in terms of the price of the highest grade of silk, in order to sentence and administer punishment in Sui Prefecture. Even though the buying and selling prices may be higher or lower, that is, not the same as the set price, the set price is still taken as the basis.

QUERY: If illicit goods are still in existence at the place of the offense, they can be compared and assessed. But if they have been expended or damaged, what [11a] is to be taken as a basis in making an assessment of value from a distance?

Further, if the place where the illicit goods are seized is not the same as the place where the offense took place, should they be sent to that place for assessment, regardless of distance, or not?

REPLY: The assessment of the value of illicit goods from a distance, according to the statute, follows the average set price. If the illicit goods are seized far away from the place of the offense, their value can only be assessed from a distance. If the illicit goods were sent back to the place of the offense in order to get the set price of the articles, then there would be transportation costs and it is to be feared that such illicit goods as animals would become emaciated. Problems would arise from fraudulent substitutions of goods. There would also be no source to pay for food for the men sent to carry the goods. Assessing the value from a distance is reasonable, convenient, and should be applied.

FURTHER QUERY: If an offense is committed abroad which is then sentenced in China, or if there is an offense involving illicit goods in a border prefecture where there are not set prices, what is to be taken as the average in assessing the value of the illicit goods in fixing punishment?

REPLY: Distant foreign countries have different customs and we cannot send dispatches there to assess the value of their set prices. We can only follow the set prices of prefectures and counties close to foreign countries and select a suitable price for use.

In cases of offenses in places where there are no set prices, the price is carefully decided in the prefectural capital.

ARTICLE: 34.2—In cases of assessing the value of labor usage, one man-day is the equivalent of three *ch'ih* of silk,⁷⁶ and oxen, horses,

⁷⁶Article 143 states that this is the value of the labor of a man between the ages of sixteen and sixty-nine. Should the man be older, younger, or infirm, the value of his labor would be less.

camels, mules, donkeys, and carts are the same.

SUBCOMMENTARY: In calculating labor as usage in order to punish, one man-day is the equivalent of three *ch'ih* of silk, and oxen, horses, camels, mules, donkeys, and carts are the same.

[11b] ARTICLE: 34.3—Assessment of the value of such things as boats, grinding mills, warehouses, and wholesale stores is also according to the value of the rent at the time of the offense.

SUBCOMMENTARY: Boats, as well as the other things mentioned above, have different sizes and periods of importance.⁷⁷ Therefore, the set price is according to the value of rent at the time of the offense and not the ordinary rent.

As for warehouses and wholesale stores: a warehouse is a place where articles are stored, and a wholesale store is where they are sold. There are many classes of shops, stalls, gardens, and houses, so that they have been summarized in general terms, since they cannot be completely detailed. Therefore the phrase "such as" is used.

ARTICLE: 34.4—Punishment may not be for more than the basic value of a particular thing, even though its use or rent produced more than its basic value.

SUBCOMMENTARY: If a donkey is borrowed and used for one hundred days, the usage is calculated at seven *p'i* and two *chang* of silk. However, the set price of a donkey is only five *p'i* of silk. In this case even though the use produced more than the donkey's basic value, the punishment is for five *p'i* of silk. Other cases where the use or rent of a particular thing produces more than its basic value all follow this article.

Article 35

[12] Kidnapping or Misleading Persons

ARTICLE: 35.1a—In all cases of kidnapping, misleading persons (*ho-yu* 和誘), or selling by mutual agreement,

SUBCOMMENTARY: Kidnapping being defined as that act done without the victim's consent has already been explained previously.⁷⁸ Misleading

⁷⁷This refers to harvest times when storage space would be at a premium, as compared with slack seasons when it would be cheaper.