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## Chapter II:

### THE LEGITIMATION OF THE CH'IN

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#### CH'IN: A WORLD EMERGING

##### PART ONE: DISCUSSION

The brevity of the Ch'in dynasty belies its historical significance. In spite of the traditional historian's denunciation of the Ch'in for its harshness and cruelty, it set the stage for much of subsequent Chinese history by its monumental empire-building successes. We have had to recast the inherited wisdom regarding the historical position of the Ch'in dynasty, for the aim here is to demonstrate its grounds for legitimacy, instead of following the traditional interpretation which bemoans its illegitimate actions and suggests its ultimate lack of legitimacy. That the first empire lasted only fifteen years does raise a fundamental question about its legitimacy: can a dynasty with aspirations to last thousands of generations be considered legitimate if it ended in less than a generation?

The issue can be formulated in another way which allows us to raise broader questions: are there circumstances or cases in which the issue of legitimacy is simply held in abeyance? Is there such a thing as marginal or conditional legitimacy? (Since all regimes must continuously renew their legitimacy, all regimes are in that sense conditionally legitimate, but conditional is used here in the sense of a temporary acceptance of a regime as legitimate until the regime has proven--or disproven--itself.) And in the case of dynasties, at what point or developmental stage in the life of a dynasty, is the ruling house considered to be securely legitimate? We may offer some tentative observations, and the papers presented here permit further comments in answer to these questions.

In the modern world, there are cases in which questions of legitimacy are held in abeyance. Most commonly these cases arise in societies that are undergoing wrenching stress as they attempt the transformation from traditional or pre-modern forms to modern, often allegedly democratic, societies. When an earlier attempt to create a democracy has failed and when the options seem to be total breakdown or totalitarian regime, then a military dictatorship will seize power and announce that it will rule the country until a constitution is written and elections are held. Often the military regime will set a deadline or specific conditions for surrendering power. In the interim, the government cannot be legitimated on traditional principles, for they have been denounced and cast aside by one or more preceding governments, nor can it legitimate itself on the democratic grounds to which it and the society are ostensibly committed. Under these

conditions, the government will have taken but the first step towards legitimating itself: it produces order and stability (often at horrendous cost). It is sometimes difficult for a modern Westerner and perhaps even more difficult for an American, to appreciate fully the magnitude of such a contribution, for in spite of some of the statements that appeared in the American press in the late 1960s and 1970s, American society has not known directly the horrors of sociopolitical sundering that some societies have felt. The fragility of the human order was demonstrated repeatedly in Chinese history, and dynastic founders and their supporters claimed again and again that they had restored order and stability to a fractured world. The modern military dictator, who can often claim little else to his credit, justifies his existence on just these grounds. When he asserts that democracy will be restored, he is in effect saying that he will not claim either traditional or constitutional legitimacy but that his administration is temporarily warranted by the imminent threat of social collapse. Hence, we can conceive of governments that are not legitimated and that cannot be legitimated by the values and norms of that society. In the Han period, the reign of Empress Lü, Han Kao-tsu's widow, may be interpreted as a case in point. Similarly, Wu Tse-t'ien, the only woman in Chinese history to rule as emperor, after a certain point in her tenure, can be best understood as occupying the throne while holding in abeyance the question of her legitimacy. The Ch'in founders patently did not consider themselves to be either illegitimate or as holding legitimacy in abeyance; they were not awaiting social or political changes that would then allow them to serve as midwives to another and different political order. We shall turn shortly to their grounds for legitimation.

Marginal or conditional legitimation, in which a government is temporarily accepted until it proves itself, is closely related to the remaining question raised in the same preceding paragraph, viz., at what stage in the development of a dynasty may that dynasty be said to be reasonably secure, that is, accepted as legitimate? We have noted in the introduction that the death of the founder created a major crisis in the early history of every major dynasty (this point is developed in Chapter XII, "Conclusions and Implications"). The founder may be thought of as possessing conditional legitimacy and the attack on his successor is most likely to come from among the very small circle of leaders who participated in the creation of the dynasty. To a marked extent, this is precisely what occurred in the founding of the Ch'in. On the basis of parallel developments in the founding of other dynasties, we can speculate that if the Ch'in house had maintained itself through the reign of the second Ch'in ruler, it would then have been reasonably secure. Put another way: the case can be made that the First Emperor was legitimate. The legitimacy of his ruling house, however, was not sustained. We may now apply the three categories of ideological, structural, and personal legitimation to the case of the First Emperor of the Ch'in.

The ideology of the Ch'in dynasty was, at best, poorly articulated, and yet that level of articulation may well have been adequate for the age. When we juxtapose Ch'in dynasty propaganda pieces (the stele inscriptions that were written throughout the reign of the First Emperor) with the major intellectual trends of the period, we see that the Ch'in dynasty was well attuned to the age. That is, Ch'in moral values and a sense of justice were probably fully compatible with the broader values of the time. Where the Ch'in dynasty seems to have suffered most in the ideological realm is precisely with regard to a dynastic ideology. It is important to

remember that a Ch'in state ruling house, Ch'in state laws, and Ch'in state institutions had enjoyed a prior existence in the multi-state world of pre-imperial China. Ch'in Shih Huang-ti and his ministers do not seem to have realized the need for a Ch'in imperial ideology. Although the Ch'in court was fully aware of the unprecedented nature of its achievements in creating an empire, it did not imagine the necessity of creating an ideology for the empire. In this sense Ch'in ideology was weak.

The Ch'in founders attempted to create an ideology in a closely related but significantly different area, that is, not an ideology of empire, but an ideology of the emperor. The ideology of emperor was not fully developed (so the remaining materials indicate); it consists of two elements: the title for the new emperor and the numinous qualities attributed to him. Huang-ti, the newly created imperial designation, is significant both for what it was and for what it was not. To take the latter first: there were several titles the emperor might have applied to himself. He had, prior to his conquest of the other states, been a king among other kings; if he had simply maintained that title it would not have reflected his achievement in bringing all of China under his control, and he therefore rejected that option. The older *T'ien-tzu* (usually rendered Son of Heaven whereas Son of God might be more appropriate) surely must have occurred to some of his advisers, but does not seem to have been seriously considered, perhaps because of the dependency relationship in which it put the ruler vis-a-vis God (or Heaven). The ruler of the Ch'in acknowledged that he was a filial son, but he was not willing to obligate himself to obey God/Heaven as its son. *T'ien-tzu*, in addition to the filial relationship, also carried the notion of the Mandate of God/Heaven, that is, the title suggested that the ruler held his position on condition of behavior approved by God/Heaven. The idea was moribund but presumably could have been rejuvenated, as it was in the Former Han. Finally, *ti* had been suggested in the recent past, but by itself it was not seen as an adequate title or symbol of the new imperial institution. Thus the mundane appellation "*wang*" (king) as well as the religiously derived "*t'ien-tzu*" (Son of God) were rejected. *Ti* was accepted but only with a qualifier.

*Huang-ti* (emperor) was a new title befitting the inauguration of the new empire. In its size and in its structure the bureaucratic imperium was unlike and, according to one of the stele inscriptions, far superior to early polities that had existed in China. None of the titles held by former rulers would suffice to convey the present and future glories of the new regime. Hence, the First Emperor felt, there was a genuine need for an unprecedented way of referring to the ruler, and he participated directly in formulating the title *huang-ti*. The title itself can be seen as a mixture of the secular and the divine. The latter element is present in the *ti* part of the term, for *ti* meant, i.a., god or god-like. The secular element is present in the pun on Huang-ti, Yellow Emperor, who in contemporaneous political thought was the ideal ruler of a rational, bureaucratic order of the distant past. And, of course, the title was also secular in that the First Emperor was ruler of the world.

In addition to the title itself, the First Emperor was described in numinous terms. His credits included creation of the perfect or near perfect socio-political order and more. He had "divine power" and it was said that his "favor extends to cattle and horses and his grace enriches the lands." Echoing the terminology of the oracle bones and the early classical texts, he referred

to himself as "I, the one man." Finally, in pursuit of immortality, he called himself a "realized man" (*chen-jen*). Thus the innovative title and the attributes of the ruler suggest a god-like figure whose very presence was beneficial to the realm. His power, presumably like that of a god, was boundless. The description of the First Emperor's numinous qualities warrant the term charisma in referring to him. I develop the idea of charisma in later chapters; what I note here is that his charismatic qualities were conceived after he became emperor. They were not a factor in his ascent to the newly created imperial throne. By virtue of his unequalled achievements in bringing peace and order to his age and by virtue of his divine qualities, a new institution had been created and legitimated, but whereas an image of a domineering emperor now existed, there was no comparable image of the empire as such.

Structural legitimation was simultaneously a source of Ch'in strength and a cause of its downfall. The values of the regime, as noted in the essay in this volume, do not seem to deviate significantly from the values expressed by the leading thinkers of the age; to the contrary, to the extent that Ch'in values can be correlated with schools of thought they are a mixture of elements from Confucianism, legalism and Taoism--a mixture that was typical of the latter part of the Warring States period and much of Han.

The norms of the regime are much more difficult to determine and their compatibility with the expectations of the society is exceedingly difficult to assess. The procedures of the government presumptively were those that society would have expected and found acceptable--but this is a shaky assumption. The post-Ch'in propaganda stresses the inordinately high taxes, the harsh justice, and the burdensome mobilization of the populace as causal factors in the fall of the Ch'in; if these charges are correct then clearly the procedures of the government were unexpected and unacceptable to the general populace. The problem is that these anti-Ch'in charges are probably exaggerations designed to serve as a mirror to Han rulers and do not reflect the socio-political reality of the reign of the First Emperor and perhaps not even that of the reign of his successor. According to the traditional wisdom, which I accept with extreme reluctance, for the history of the Ch'in has not yet been fully subjected to rigorous analysis, the norms of the populace were violated by the Ch'in government, particularly under the Second Emperor, and that violation contributed significantly to the fall of the Ch'in. That is, in this area of concern, the Ch'in was not legitimate or lost its legitimacy.

The structures of authority of the Ch'in empire must be analyzed on an areal basis, for acceptable structures in one part of the empire were viewed as despicable intrusions in other parts of the realm. The Ch'in state included parts of other states well before the final conquest. In those areas, and particularly in the home regions of the Ch'in state, there would have been no question about the acceptability of Ch'in institutions; such local offices and the various arms of the central government would have been long accepted and acceptable. But in the newly conquered states, particularly Ch'u and Ch'i, the Ch'in empire was not welcome. The increasingly strident tone of the stele inscriptions suggest that the Ch'in court realized that the imposed administrative structure was not being accepted and that increasingly condemnatory statements were required in order to justify the conquest of those states. Additional circumstantial evidence comes from the Han disposition of these territories; the states were

recreated and maintained within the Han empire, thus acknowledging the importance of state identities and the strong nostalgia for the older political order. In view of the rapidity with which the pre-imperial states were restored in the civil war and in view of the commitment of the Han founders to maintaining those states within the Han empire, I am inclined to believe that in this area of structures of authority the Ch'in legitimation case was weaker than in any other area.

Finally, the authorities of the Ch'in empire are so little known that an analysis of their role, positive or negative, in the legitimation of the Ch'in is almost beyond the realm of possibility at most levels. At the center, the roles of the Second Emperor and the eunuch Chao Kao are sufficiently well known to require little comment; they tended to discredit the dynasty by violating the rules that pertained to their positions and thereby lost their legitimacy. Although we lack many specific cases of local level authorities, the speed with which the various rebellious movements swept through the countryside shows that local authorities easily lost whatever legitimacy they had had. But similarly, the few cases of resistance led by local officials reveal that perhaps they continued to be treated as legitimate even as the dynasty was being brought down around them.

Do personal sources of legitimation figure prominently in the Ch'in case? The answer is mixed, depending again, on areal factors. Within the Ch'in territories themselves, personal legitimation was not a factor, for the First Emperor had originally ruled as king of those territories. He held this throne by the custom of tradition and his royal status did not depend upon personal leadership qualities which had allowed him to seize the throne. In those parts of his empire that he added by conquest, the situation was somewhat different, for there he and his courtiers sought to project the image of a leader who was endowed with great cosmic influence--and who had created a new social and political order. To the extent that these conquered lands never fully accepted Ch'in domination, then to that extent his personal leadership qualities were inadequate to override those local loyalties. And personal leadership, even his nurtured charismatic image, did not provide the Ch'in emperor with legitimacy.

Our earlier overview of personal sources of legitimation also throws a bright light on the problems of the Ch'in empire. The quick collapse of the Ch'in can be seen as part of what was to become a major problem in Chinese history (and already had been a problem in the Shang and Chou foundings), namely, the transmission of power to the successor of the founder. The Second Emperor proved to be easily manipulable, not a man who was determined to rule as well as to reign. He lacked the ability and the commitment to exert himself and his government to carry out the stabilizing step of securing his ruling house. This essential phase in the founding of a dynasty was second only to the founding itself in assuring perpetuation. The Second Emperor may have been lulled into a false sense of security by the fact that he, like his father, had inherited a firmly established kingdom throne; that is, his position within the Ch'in line of succession did not encourage him to think in terms of an imperial throne and concomitant imperial problems. In sum, the requisite personal leadership qualities were deficient in the case of the First Emperor and lacking in the case of his successor.

In summarizing these remarks on Ch'in legitimation, we may note the following: Ch'in

ideology was not well articulated, but the values of the dynasty, in spite of what the traditional interpretation of the Ch'in has been, were attuned to the major values of the period. This finding is significant for two reasons: first, it leads to a major reinterpretation of the place of the short-lived Ch'in dynasty in Chinese history by revealing the extent to which Ch'in thought was compatible with current intellectual trends. Second, it demonstrates, as does the Han case (see below), that the creation of a dynasty did not require a well-articulated ideology. That the Han was able to maintain itself whereas the Ch'in was not, suggests that the absence of an articulated ideology in the Ch'in case was probably not a key factor in its rapid demise. The structural legitimation of the Ch'in drew upon well established political movements towards increasing bureaucratization; thus, neither the norms, values, nor the structures of authority would have been sufficiently unacceptable to preclude legitimating the structure of the regime. On the other hand, the extension of Ch'in authority via these institutions into heretofore autonomous kingdoms proved unacceptable to many people in those kingdoms. Accordingly, it was not the structure per se that was found objectionable; rather, it was the Ch'in attempt to obliterate local identities, the movement to snuff out traditional political worlds, that created an ultimately insoluble problem for the Ch'in rulers.

## PART TWO: THE PAPER

Legitimation remains an ill-developed concept in the writing of historians, political scientists, and political sociologists, in spite of concern for the subject by such an outstanding figure as Max Weber. Furthermore, assuming that an acceptable delineation of the concept can be generated, severe doubts may well be raised regarding any attempt to apply that term to the Ch'in dynasty. The Ch'in is consistently recognized for its towering role as the unifier of China after at least five centuries of almost uninterrupted fighting in the Chinese multi-state world, but it has been traditionally execrated for the destruction of much of the "good, old traditional order" that was the world of Confucius and his followers. Accordingly, traditional Chinese historiography has been more concerned with damning Ch'in than with evaluating its claim to empire. There is an additional factor in the Ch'in legitimation case: the Ch'in dynasty was overthrown in 206 B.C., only fifteen years after the creation of the empire. Clearly, if longevity is one of the tests of legitimation, the Ch'in ruling house does not qualify as a legitimated regime.

The first part of this paper deals with the question of legitimation. I try to sketch several aspects of legitimation, drawing upon the works of others, where possible but also trying to elaborate the concept as it pertains to the Ch'in dynasty. The second and third sections of the paper are a review of major intellectual trends before the Ch'in. From this review, a perspective develops which will allow us to view the Ch'in in a new light. We shall see that the Ch'in is not simply the harsh legalist regime that it is often made out to be; it supported values that we usually consider Confucian and other non-Legalist values. And, according to Ch'in propaganda,

the Ch'in regime offered new hope for a glorious future.

## ON LEGITIMATION

Legitimacy appears to be a well-nigh universal phenomenon, a factor which does not facilitate dealing with it. Regimes as disparate as those of Pharaonic Egypt, feudal Japan, imperial China, democratic U.S., and Marxist-Leninist Soviet Russia have all legitimated themselves. Different as these regimes may be, they are all alike in regard to this one important characteristic. What is that characteristic? How do we define it? Dolf Sternberger's definition of legitimacy will serve as a starting point for our discussion: "Legitimacy is the foundation of such governmental power as is exercised with a consciousness on the government's part that it has a right to govern and with some recognition by the governed of that right."<sup>1</sup> Three elements in this quotation may be isolated for further comment: power, the government's right to govern, and recognition by the governed of that right.

Power alone is not self-legitimizing. Pure power, unsupported by a belief system, might conceivably be effective on a relatively small scale; the power wielder, the person who is able to influence others to do what he wants them to do or who is able to prevent them from doing what they otherwise might do, could through coercion or threat of use of force compel others to accord, more or less, with his will. In the long run, however, influence exercised in this way is prohibitively expensive to maintain. Furthermore, the power holder appears to have no better claim to his power than any of those who are subject to his direction. When the man who possesses power seeks to develop a claim to power he has begun the process of legitimation; regardless of the origins of power, there is an ineluctable tendency to make sure that one's might is viewed as right. Gods or divine forces may grant power to the ruler, or the ruler himself may be a god, but in neither case is the ultimate rationale of power possession the possession of power.

The government's right to govern may derive from one or more of a large variety of sources. Sternberger classifies all of them into general categories, producing essentially two types of legitimacy: numinous and civil. Civil legitimacy does not apply to early Chinese history; indeed, in China this category is meaningless until the twentieth century. We can, accordingly, omit it from further consideration in this paper. Numinous legitimacy encompasses, according to Sternberger, the following: the dominion of a godking (e.g., the Pharaoh); the godly origin of the king (the king as the son of god), divine vocation (Charlemagne ruling "by the grace of God"), and numinous inspiration (Moses). The second type (the king as the son of god) has its analogue in Chinese political culture; the emperor was referred to as T'ien-tzu, Son of Heaven. However, the concept of the Chinese emperor as the Son of Heaven, as a ruler who is legitimated by the conferral of the famous "Mandate of Heaven," does not figure in Ch'in nor even in early Former Han political thinking. No one of the types posited by Sternberger applies directly and exclusively in the Ch'in case, although, to be sure, there are some elements in the Ch'in case that correlate with the ideas of inspiration and divine vocation.

Sternberger does not explicitly state one element undergirding the government's right to govern that is well worth noting: ruling regimes generally develop, or accept ready-made, an ideology. Political ideology may be defined, in this context, as a set of ideas or doctrines, more or less internally consistent, which set forth the moral, religious, and other assumptions that justify the existence of the particular governmental system and the place of the rulers within the system. The ideology of the ruling regime serves the ultimate purpose of legitimating the regime.

An ideology cannot, however, be fabricated simply to legitimate a regime. It must reflect a perceived reality, as well as setting forth goals which guide and may even restrain the regime which espouses it. A new regime may supplant an old one because the old regime violated its own ideology, in which case the new regime is little more than a traditional restoration, a reversion to the good old values of the past. At the opposite extreme is the revolutionary regime which legitimates itself on the basis of an ideology that explicitly denies the validity of the former ideology and which simultaneously purports to lead its people toward a new world with an entirely new set of values and assumptions. Between these extremes of the new and the old we might posit, theoretically at least, a regime that differed markedly from the old order but which because of unprecedented and cataclysmic changes had not yet formulated an ideology that adequately legitimated its own existence. The Ch'in dynasty seems to have been founded at just such a momentous historical junction. It clearly stood for destruction of the old, but because of its unusual historical rise it could not provide an integrated ideology. The Ch'in era may be interpreted as a pre-ideological age. The First Ch'in Emperor certainly realized that he had to justify the existence of his regime and most of this paper is devoted to an analysis of his efforts, but we seem to have been left a series of parts, not an articulated ideology.

The third element of Sternberger's definition, "some recognition by the governed of [the government's] right" to govern, presents several different kinds of problems, particularly in the Ch'in case. "The governed" do not constitute a homogeneous mass who may all be treated as of equal weight in our considerations. The Ch'in had existed for hundreds of years before there was a Ch'in empire. Furthermore, the conquest of all of China by the Ch'in had required generations of warfare. Thus, some Ch'in subjects considered themselves from earliest times as people of Ch'in; presumably they would not have questioned the Ch'in ruler's right to rule. These original Ch'in subjects would have known no other regime or ruling house; the Ch'in king ruled because his father had passed the throne on to him, and little more justification than that was needed. But other subjects of the Ch'in empire (people brought under Ch'in domination in the final campaigns of the 230's and 220's B.C.) would have to be convinced that the new imperial order was right and proper. Most of our data (and our remarks) deal implicitly with this group. Even this group, however, should be componentially analyzed, for we may assume that remarks would have to be designed to appeal to such disparate elements among the newly conquered as the old ruling families, on the one hand, and the illiterate commoners, on the other hand. Regretfully, we are dependent for our arguments on the Ch'in disseminators of propaganda; that is, there is an insoluble problem regarding the extent to which the governed, however defined, recognized the right of the regime to govern. The only evidence relevant to the latter point derives from the anti-Ch'in rebellions that erupted within two years after the death of the First Emperor. Until that

time, we must assume (a) reasonable contentment with the new order; (b) at least acquiescence, if not contentment, in that order; or (c) discontent with the new order that was effectively suppressed by the Ch'in regime. How do we determine the extent to which the governed acknowledged the government's right to govern? The problem is not unique to China or to the Ch'in. But are we left with a reductionist answer, viz., until the governed overthrow the governors the latter are treated as legitimated. If that is the case, then the question of legitimation becomes one of values and goals generally shared by the governors and the governed. We now turn to the background of those shared elements in legitimation.

## THE MAJOR SCHOOLS RECONSIDERED

In most studies of pre-Han thought there has been a pronounced tendency to view the pre-imperial period as one in which there was a strong and ineluctable trend toward the development of highly rationalistic thought. That trend is customarily seen as reaching its apogee in Legalism, and the Ch'in imperial regime is seen as epitomizing that trend. However, several of the major thinkers of the period cannot be associated with that alleged trend. Those thinkers, Tsou Yen, Lü Pu-wei, and Han Fei, differ markedly from each other, but they all share a concern for synthesis or eclecticism which inaugurated the better known synthetic trends of the Han period. It is my contention that only by reviewing this background can we then fully comprehend the intellectual trends of the Ch'in dynasty itself, for the Ch'in regime was not as Legalistically committed as it is usually made out to be. To the contrary, it drew upon the synthetic and eclectic trends of the age. The role of the synthesizers, in turn, can be adequately understood only if we review the offerings and fortunes of their predecessors in the Confucian, Mohist and Legalist schools. Accordingly, before discussing Ch'in thought we must survey, speculatively at times, these three important schools. Then some brief interpretive comments will be made on the three synthesizers. Only then can we reconstruct the major intellectual trends which characterize the Ch'in regime.

The Confucian school<sup>2</sup> (here narrowly defined to include Confucius and Mencius but to exclude Hsün-tzu who can be interpreted as an incipient synthesizer but who was outstripped by his student Han Fei) for purposes of this paper can be characterized as the bearers of a moralistic philosophy that failed to gain acceptance by political authorities. Of all the schools of the pre-Ch'in period, the Confucianists were most concerned with moral questions. The truism requires some elaboration, for the moral concerns of Confucianism made it necessary to all rulers. First, no society can exist without moral values that themselves exist outside of a legal code. Propriety, honesty, respect, concern for fellow man, etc. are found in all human cultural systems. The sanctions to enforce those values differ from culture to culture and even from individual to individual within a given culture. Retribution for violation of those moral norms is usually, and particularly in pre-modern societies, associated with divine forces of one kind or another. Sanctions may also be introduced in the law in order to uphold those values, but even then in the minds of many that is an additional and secondary sanction. Second, the Confucianists came close to monopolizing the concern for morality. Other schools denied the importance that the Confucianist attached to morality; the Legalists offer the most extreme example. But note that

when the Legalists focus attention on law or techniques they are addressing themselves to political and administrative problems, not to moral issues. Third, a regime that adopted Legalist tenets and priorities would still have to recognize and accept existing moral values--they would be a pervasive part of the society. If this line of reasoning is accepted, then the Confucianists as the bearers of the moral tradition are going to have at least one foot in the door of any palace, regardless of the intellectual commitment of the occupant of that palace. Put another way, Confucian inroads can be expected in any early Chinese regime precisely because of the extent to which the Confucianists based most of their arguments on moralistic concerns which are necessary for every society.

Just as the moralistic focus of the Confucianists assured them of a margin of acceptability and success in the more general social realm, so also their moral concern helps to account for their failures in the political realm. Mencius' admonitions to the rulers of various states are often incredibly idealistic. The rulers who granted him audiences were engaged in fearsome struggles with their neighbors and their own ministers, and yet when asked how they could enlarge their territories, enrich their states, or become secure rulers of the world, Mencius typically responded that moral suasion would assure success in all worrisome areas. Even when Mencius did address himself to hard political and economic problems he fared no better. When rulers of the period were striving to increase their own powers, Mencius offered political advice that was designed to strengthen political elements exclusive of the ruler; specifically, more attention, he said, had to be paid to the commoners. Private land ownership was common by Mencius' time, and yet he urged the restoration of commonly held land (to be carried out, presumably but incongruously, by an extremely powerful autocratic ruler). We ought not to be surprised that no ruler of the Warring States period was won over to the Confucian political position.

Confucian morality even though commonly accepted in a rapidly changing world was inadequately provided with sanctions. Mencius, for example, informs his readers that one must be good because it is good to be good. That is, Confucian morality seems to exist independently of any philosophical or religious system. Mencius does not deal with such perennial philosophical questions as the origin of the world, the operation of the cosmos or man's relationship to it. Accordingly, Mencius could not compel rulers of his time to accept his moral ideas, for his ideas lacked compelling sanctions. And parenthetically we might note that the Mencius was accorded full canonical status only after Neo-Confucianists had developed a world view (strikingly similar to ideas adumbrated by Han Fei) that would accommodate the Mencius and make its ideas compelling.

The Legalists (Shen Pu-hai, Shen Tao and Shang Yang) were strongest in precisely those areas in which the Confucianists were weakest and vice versa. They raised questions concerning the acquisition, exercise and maintenance of royal power--exactly the kind of questions Mencius was asked--and they provided programmatic answers to those questions. Exclusive application of Legalist ideas, however, would have required that ministers and rulers be iron-willed and probably utterly heartless, for the ideal Legalist ruler would never have allowed compassion or friendship to sway him. Even in the state of Ch'in there is no example of a ruler who devoted himself fully and completely to the pursuit of Legalist policies. Furthermore, the Legalists were

probably naive in believing that the law could be made to reach everywhere and that everyone could be made to respond only to the law. Finally, precisely because Legalist ideas were helpful to the ruler, and primarily to the ruler alone, they lacked humanitarian values which would give them a broad social base and command not merely passive acquiescence but active support. In a world that was absolutely rational, Legalist ideas might have sufficed. Perhaps recognizing that that world did not exist Han Fei tried to provide a philosophical and political framework in which Legalist and other values could coexist.

The Mohists must be credited with realizing the importance of sanctions in order to make their values prevail, and for those sanctions they argued for the existence of omnipresent gods and spirits who would invariably punish the wicked and reward the good. The Mohists probably found additional support from rulers for their position because of their professed universalism as opposed to the particularistic values of the Confucianists. Furthermore, their emphasis on frugality and their legendary military expertise would also have been appealing to many rulers and officials of the period. Hence, the relative success of the Mohists can be understood. Accounting for their failure presents a rather more difficult problem. The school continued to have followers well into the Han period, at least. Perhaps they suffered because their explicitly authoritarian ideal was too threatening to those other than rulers in the Han period. Also, their austerity would probably not have been very popular in an age of economic growth and recuperation, such as the first part of Former Han. Finally, their conspicuous utilitarianism may have been based upon an accurate assessment of man's primary motivation but it was treated in such a crass manner that it may not have been very appealing. Whatever the reasons, and I do not suggest that the foregoing are the only ones, Mohism was also found wanting.

This survey of the major schools admittedly deviates from the usual approach by focusing on asserted inadequacies of each of them. The positive approach is so well known that it needs little or no comment. Only by apprehending the weaknesses and the hiatuses within the schools can we make sense of the attempts to integrate ideas from some of them into a new amalgam that characterized the thought of the late Warring States period and the new imperial age of the Ch'in and the Han.

## SYNTHESIS AND ECLECTICISM

The term "synthesizer" is not a very satisfactory way to refer to the figures we deal with here, for most Han and post-Han thinkers synthesized elements of two or more intellectual traditions. Accordingly, since the term seems to have universal applicability it does not reveal nuances or shifts in the balance of elements that constitute a specific synthesis. But more precise terms, such as a "Legalist-Taoist-Confucianist Synthesizer" as distinct from a "Confucianist-Legalist-Taoist Synthesizer" (in which the order of the "-ists" reflects decreasing importance in the mix) are impossibly bizarre. For want of a better term, synthesizer with suitable, minimal qualifiers will have to suffice for now.

Tsou Yen, the first of the three synthesizers, is well known for his efforts to apply *yin-*

*yang wu-hsing* sanctions to Confucian political morality. Ssu-ma Ch'ien informs us that Tsou's ideas had an immediate impact but that his long-range influence on political figures of his era was quite limited with regard to their acceptance of or conversion to Confucian values. In other respects, however, ideas of the kind espoused by Tsou Yen were to have a permanent presence in Chinese intellectual history. Whether that presence is to be attributed specifically to Tsou Yen or whether it should be viewed as a general Zeitgeist of the period is beside the point here. What is significant is that Tsou apparently recognized one principal weakness in Confucianism, and sought to remedy it by providing compelling reasons for acceptance of certain Confucian values.<sup>3</sup>

Lü Pu-wei often receives scant attention (or none at all) in histories of Chinese thought, but Lü signifies even better than Tsou, perhaps because Lü's work survives and Tsou's does not, the urge to draw eclectically upon all or most of the major schools in order to produce a body of thought that was superior to the thought of any one of them. Traditional historians have had little difficulty in discovering sufficient grounds to vilify Lü: he was a merchant, he was the putative father of the First Emperor of the Ch'in, he was cashiered from office, and he died an unnatural death on his way to banishment. And, he was presumptuous enough to engage a group of scholars to compile a work that he planned to use in usurping the Ch'in throne. A very different characterization, however, can also be depicted: he was a successful merchant in an age in which no politically inspired stigma was attached to that occupational category, he served for over a decade as first minister in the Ch'in state, he successfully continued the Ch'in policy of expansion, and he was sufficiently aware of the lack of a unified body of thought to guide the Ch'in state and the emerging Ch'in empire that he recruited scholars to compile such a body of thought. His work, the *Lü-shih ch'un-ch'iu* is China's earliest, consciously and consistently organized theoretical work; that feature alone makes the work deserving of more attention than it has heretofore received.

Lü's work is basically a Confucianist piece. That is, it argues for the humanistic values that we usually associate with Confucianism. To give just one example: Lü redefines the traditional *pen* (fundamental) and *mo* (incidental) by asserting that *pen* is not agriculture but filial piety,<sup>4</sup> and he then elaborates on this particular Confucian value. Furthermore, much of the thought of the *Lü-shih ch'un-ch'iu* is presented within a cosmic and calendrical framework that owes much to the *yin-yang wu-hsing* trend of thought represented earlier by Tsou Yen, who was also committed to Confucian values. Lü's work, anticipating one of Tung Chung-shu's ideas and later developments within Confucianism, even suggests that Confucius and Mo-tzu might have been kings except that they lacked territory.<sup>5</sup>

The work shows a broad awareness of what the other schools of the time had to offer and selects some tenets from those schools while consciously rejecting others. For example, Lü and his compilers approve of the Mohist admonition for simple funerals but reject that school's position on music; they disapprove of the Mohist rejection of offensive warfare, but they also reject the Mohist case for defensive warfare. In the latter case, the Confucian concern for righteous action takes precedence over the Mohist idea of prohibiting war by making such strenuous and effective defensive efforts that siege of a city becomes too expensive; that is, Lü

argues that emphasis on defensive warfare is justifiable only if the cause is right, and his cause is Confucian.<sup>6</sup>

Not surprisingly, the three major Legalist tenets do not fare well in Lü's treatise, even though Lü Pu-wei held essentially the same official position as Shang Yang, his renowned Legalist predecessor. Technique (*shu*) does not occur in the *Lü-shih ch'un-ch'iu* with the meaning the Legalists assigned to it. *Shih* (position, circumstances) is much discussed, but not in the manner in which we usually think of it. On one occasion, a lengthy admonition regarding *shih* amounts to a plea to maintain fiefs.<sup>7</sup> Elsewhere in the text *shih* is held up as the antithesis of learning<sup>8</sup> and as leading to deceit.<sup>9</sup> Clearly, this Legalist concept is not esteemed, for it leads one away from constant principles. Law (*fa*) in the *Lü-shih ch'un-ch'iu* does not occupy the major position that it holds in the works of Shang Yang and Han Fei. It is seen as a necessity for social and political order, but it is submerged in importance to the teaching of Confucian principles. Rather than argue that the law should be applied without fail in all cases, Lü says that the decision to make Chou, the last ruler of Shang, the heir apparent was wrong even though it was decided by law; under such circumstances, no law would be better than having law.<sup>10</sup> Instead of lauding Shang Yang for his concentration on law or even associating him with *fa*, Lü asserts that King Hui of Ch'in began to doubt Shang Yang because of the latter's lack of righteousness in dealing with the state of Wei; ultimately, Shang Yang's death was due to his lack of Confucian principles.<sup>11</sup> In sum, Lü Pu-wei manifested no warm fondness for Legalist principles. Indeed, his comments on law are in no way associated specifically with the Legalists.

Histories of Chinese thought often note a growing secular trend in the Warring States period, but, although the existence of the trend is undeniable, its relative importance is not as great as it is often asserted to have been. Religious observances appear prominently in Lü Pu-wei's work; the twelve *chi* (calendar of annual activities) in the *Lü-shih ch'un-ch'iu* record a god for each of the months of the year. All of these gods were to receive timely offerings by the ruler or his officials. In addition major mountains and rivers were to be similarly honored. *T'ien* (Heaven) appears frequently in the work as a supernatural force that punishes the evil and that determines that some rulers shall fall and others rise. Comparable attention to the holy was a feature of the Ch'in dynasty.

The ideas and values of the *Lü-shih ch'un-ch'iu* operate within a universe that owes much to Taoism. Lü's definition of the Tao is directly from the Lao-tzu.<sup>12</sup> And the Tao, also identified with *T'ai-i*, not yet a god, is the prime mover behind all creation. Other Taoist values, particularly those that apply to the ruler, are sprinkled throughout Lü's work.

Finally, the concept of *li* 理, here rendered natural imperative, occurs repeatedly and with great emphasis throughout the *Lü-shih ch'un-ch'iu*. The mind relies upon these natural imperatives to know, just as the eye relies upon light to see.<sup>13</sup> Natural imperatives are the guide to conduct<sup>14</sup> and the origin (*tsung*, ancestor) of right and wrong.<sup>15</sup> This concept was applied, in part, as a response to the rhetorical trickery of the Logicians; if distinctions or knowledge run counter to these imperatives then that knowledge is false.<sup>16</sup> But *li* also went beyond that particular context; it was closely associated with filial piety and with loyalty. One gained an

understanding of *li* only by diligent study.<sup>17</sup> *Li* as a basic concept was common to other schools of the period (see below), but it did not achieve its full recognition until the rise of Neo-Confucianism.

I am the first to admit that much more work is needed on the *Lü-shih ch'un-ch'iu*. The manner in which all of the parts fit together into a coherent whole, assuming that they do, is far from clear to me. Nevertheless, the preceding paragraphs should remind us of the eclectic nature of the work. There is no doubt that Lü sought to borrow from various schools of thought while taking the offensive against others in order to produce a new amalgam of ideas placing primary emphasis on Confucianism, but augmenting Confucianism in those areas in which it was weakest.

Han Fei appears most often in histories of Chinese thought as the thinker who drew together earlier Legalist ideas and concepts and thus emerges as a synthesizer within the Legalist tradition. But his work does more than that, and because his efforts go beyond those of his Legalist predecessors he too can be seen as a synthesizer in the manner of Tsou Yen and Lü Pu-wei. He was, however, also quite different from them in that he was more concerned than they with narrow political ideas and less concerned than they with broader social issues. His work is more difficult to deal with than Lü's, for the *Han Fei-tzu* is not a neatly argued whole; rather, it consists of a large variety of materials written for different purposes, offered to different rulers, over a considerable period of time. Parts of it are even of uncertain authorship. From the pieces within the work, however, a rich array of ideas, not limited to the offerings of the earlier Legalists, clearly emerges.

Han Fei's writings draw basically from three earlier schools: Legalists, Taoists, and Confucianists; clearly, the first of these is the most important among the three. As is well known, Han comments and elaborates on the three basic Legalist tenets noted earlier. He differs from his Legalist predecessors in several respects, however, and it is the differences that are most noteworthy here. First, he argues that no one of the three basic concepts (techniques, laws, and position) is sufficient for the ruler. Indeed, he explicitly faults Shen-tzu and Shang Yang for their lack of thoroughness, i.e., the ideas of both are essential.<sup>18</sup> Thus, he is far from an uncritical perpetuator of the tradition. Second, *shu* (techniques) are no longer devices that belong only to the ruler; there are numerous examples in his text in which ministers and officials also have techniques which they apply.<sup>19</sup> Han Fei's reinterpretation of the meaning and application of techniques indicates a subtle but important reduction of the role of the ruler in his thought; that is, he was willing to see the officials play a larger political role than his predecessors had been willing to assign them. Third, Han Fei, perhaps more attuned than Shang Yang to man's willingness to respond to remuneration, argues for a greater balance between rewards and punishments by placing considerable emphasis on rewards.<sup>20</sup> The second and third points both suggest a softening, if you will, of the inherited harshness of the doctrine.

Han Fei was more a philosopher and less a political strategist than, e.g., Shang Yang. He was apparently led to reflect on the nature of the cosmos within which the ideal Legalist state (as

he understood it) would exist. These philosophical ruminations are manifested in Han Fei's adoption and modification of the Taoist world view.<sup>21</sup> Basically, Han Fei, and to a lesser extent the earlier Legalists as well, founded their ideas on a "natural dynamism of existence" that one does not see if one looks only at the law, techniques and position that often are used to characterize the Legalists. That is, Han Fei develops Legalist ideas within a Taoistically inspired ontology. The world view is rational and natural, and man's response to it must also be rational and natural. To give one example: order in the universe is possible only if the ruler conforms to the nature of man; since man, by his nature, finds certain things attractive and others repulsive, the Legalists have based their view of law on the nature of man. The ruler, in this system, is easily analogized to the Tao or Heaven, for he legislates for man just as Heaven legislates for the cosmos. Furthermore, because of this analogy, the ruler is often referred to as "godlike." The ultimate goal of Han Fei is a world that has been transformed to the extent that *wu-wei* prevails. Thus, the ideal existence is not markedly different from that of the Taoists, although the means of achieving that ideal are far from similar, in large part due to Han Fei's cognitive dynamism and due to his willingness to accept and work within the dynamically changing world.

The term *li* (rendered "natural imperative" in the case of Lü Pu-wei) is also used by Han Fei but in a rather different sense. *Li* means reason; it is the formal cause for every thing. All beings and all things have their *li*; this fact assures us that the entire universe is rational. Thus, whereas the Confucianists dwell upon man as the measure of all things, Han Fei focuses upon the objective *li*. Having paraphrased Vandermeersch, let me now quote him: "L'homme parfait sait retrouver la raison de tout par la technique critériologique, c'est en cela qu'il est légiste; et se soumettre à cette raison pour dominer par elle le monde entier, c'est en cela qu'il est taoïste."<sup>22</sup> This belief in the world as entirely rational provides Han Fei with a criteriology by which he can then go on to guide the ruler away from the subjective and misleading moral concerns of the Confucianist.

Han Fei, however, was not entirely free of those values that we normally take to be Confucian; indeed, he did not attempt to free himself or his thought from those ideas. He argued diligently and consistently, however, that the ruler should not be swayed by Confucian values, for if he were, he would be prevented from making rational judgments.<sup>23</sup> The state and its rational criteria must take precedence over the Confucian benevolence and righteousness which are unreliable because too easily subjected to personal frailties. On the other hand, Han Fei does not anticipate a world without benevolence, righteousness, propriety, and filial piety. For example, he criticizes Yao and Shun and other leaders of yore precisely because, in spite of their reputations in the Confucian view, they were not upholders of loyalty and filial piety.<sup>24</sup> Propriety (*li* 禮) occurs in numerous passages in the *Han Fei-tzu* as a necessary part of human existence and even of political importance.<sup>25</sup> In sum, Han Fei opposes Confucian values only to the extent that they may adversely effect the ruler's judgment; he does not argue against those values per se. How do those values fit within his rational world view? Are they not incompatible with his concept of *li* reason? Han Fei does not deal with these questions. By giving him the benefit of the doubt what we might suggest is that he was overwhelmingly concerned with political problems and political values. Social and moral values could be overlooked, i.e., passively accepted, not actively integrated into his thought, so long as they did

not weaken the political guidelines he espoused.

If we now assume, not that the synthesizers and eclectics will necessarily have a direct influence on the founder of the Ch'in dynasty, but that they are representatives of broader trends in the intellectual and political world, and if, on the basis of that assumption we should attempt to predict the behavior of the Ch'in founder, then what might our predictions be? First, we ought not to expect the Ch'in regime or its founder to manifest an exclusive commitment to Legalism, for even the most Legalistically oriented of the three synthesizers has imbibed some Confucian and Taoist brew. Second, if we further assume, for whatever reason, that the regime will not eschew China's religious heritage, then we would predict religious activities by the regime. This multifaceted complex deriving from religious lore, Confucian values, and Legalist tenets is indeed what emerges from a study of the Ch'in data that avoids the traditional account which was designed to malign the regime for its heartless Legalism.

## CH'IN THOUGHT: A TYPICAL AMALGAM

### *Key Sources*

Sources for the study of Chinese thought in the Ch'in empire are extremely limited in number and oftentimes of uncertain quality. Ssu-ma Ch'ien's *Historical Records* provides the modern researcher with most of the available materials. The history contains biographies of only a very few major Ch'in figures, and those biographies are of doubtful value. Some of the data in the treatises, particularly the "Feng-shan shu," are of immense value and will be drawn upon repeatedly. The "Annals of the First Emperor of the Ch'in" undoubtedly constitute the most fruitful materials for a study of Ch'in imperial thought, but the "Annals" are of an unusual nature and require some introductory comments.

Chapter Six (the "Annals of the First Emperor of the Ch'in") of the *Historical Records* is devoted to the reigns of the First Emperor (Ch'in Shih Huang-ti); his son and successor, the Second Emperor (Erh-shih Huang-ti, r. 209-207 B.C.); and the brief reign of Tzu-ying, who held the title of king for only 46 days before he submitted to the future founder of the Han dynasty. The materials covering the reign of the First Emperor after he had completed the conquest of China in 221 B.C. do not consist, as we might expect, of a series of policy discussions and edicts, nor do they inform us of the numerous major developments in the empire, nor do they indicate who was being promoted to the highest positions in the bureaucracy. The deficiencies of the record may be suggested by the following: the text for the thirtieth year of his reign (the years are numbered from the time he ascended the throne as king) contains only the laconic two-word message: *wu-shih*, "There are no matters [to record]." The chapter does contain details of selected incidents and anecdotes, some of which we shall consider below. In view of the general inadequacies of the record, the reader is struck by the inordinate amount of space allocated to reproducing the texts of steles that were erected during the First Emperor's reign. Almost one-fourth of the materials in this imperial part of the "Annals" come from this single, often repetitious source. These laudatory inscriptions preserve rare materials, propagandistic in tone,

giving us a glimpse of the aspirations of the Ch'in ruler. They are essential for this study, although admittedly of an extreme bias in favor of the Ch'in emperor. Because of the relative bulk of these materials and because of their importance for this study, we must attempt to answer two questions: why were the inscriptions written and why has Ssu-ma Ch'ien preserved them?

The contents of the inscriptions initially led me to believe that they were composed for political purposes, that is, that they were political propaganda pieces designed to make the Ch'in empire and specifically the first Ch'in emperor acceptable in the eastern part of his realm in which the texts were erected. After additional reflection, however, I have been led to conclude that the stele inscriptions (with one possible exception) are fundamentally religious documents. That is, whereas they may have served secondary and tertiary roles as political and social announcements, they were piously composed as a part of the religious activities in which the First Emperor regularly and frequently participated.<sup>26</sup> The inscriptions are highly important because they show that in the Ch'in regime religious values were of great concern. As briefly as possible, I shall note the provenance of each of the seven inscriptions, adding just enough detail to substantiate the foregoing assertion.

Stele I (219 B.C.) is the only one of the inscriptions not found in the *Historical Records*.<sup>27</sup> However, Ssu-ma Ch'ien's history is scrambled at the point at which the text perhaps was recorded. This stele is the only one which cannot be specifically associated with a religious observance. It is unique in one other way, viz., the last stanza reads in part: "The many ministers...have cut this musical stone in order to set forth the canonical record." The reference to the musical stone and the fact that the stele was erected on Mt. I in the territory formerly Mencius' state of Tsou in Shantung perhaps suggests an association with Mencius or a more general association with Confucian ritual matters.<sup>28</sup> Unfortunately, we cannot go beyond these speculations regarding the milieu in which the inscription was composed. We might note that Ssu-ma Ch'ien could have intentionally omitted this inscription from his record precisely because it was not associated with a specific religious observance.

Stele II (219 B.C.) was erected on Mt. T'ai, China's most holy mountain. The occasion for the inscription was the performance of the Feng and Shan sacrifices.<sup>29</sup>

Stele III (219 B.C.) was inscribed when the Emperor made his first visit to the beautiful Lang-ya on the seacoast. The site of the stele was located at the place where the God (Lord?) of the Four Seasons (*ssu-shih-chu* 四時主) was honored. The text of the inscription lauds the First Emperor for "Responding to the seasons..." and for "regulating matters according to the seasons."<sup>30</sup>

Stele IV (218 B.C.) commemorates the Emperor's ascent of Mt. Chih-fou which was the site at which the God (Lord?) of Yang Ether (Yang-chu 陽主) was worshipped. Not surprisingly, the inscription begins with a reference to the mid-spring season and the rise of the *yang* force.<sup>31</sup>

Stele V (218 B.C.) traditionally is treated as a separate inscription, but it was created in

the same time and place as Stele IV. It too begins with a reference to the *yang* force.<sup>32</sup>

Stele VI (215 B.C., at Chieh-shih) is associated with the Emperor's search for immortality. Ssu-ma Ch'ien provides the key phrase when he states in the first line after the inscription "Accordingly (yin 因) [or "Consequently," or "On these grounds"] he (i.e., the Emperor) sent Han Chung [and others] to search for the immortality drugs of the immortals."<sup>33</sup> The geographical location was probably also significant. Chieh-shih was the end ("tail") of the Chinese world; in this place the Yellow River emptied into the sea and China's great mountains also ended here.<sup>34</sup> I do not understand the connection, if any, between immortality and the edge of the Chinese world, unless one assumes that immortality can only be found beyond the mundane world. Chieh-shih had come to symbolize the border between the two; those who went to sea looking for the isles of the immortals departed from Chieh-shih.<sup>35</sup> Furthermore, people of the former state of Yen, in which Chieh-shih was located, were renowned for their interest in immortality.

Stele VII (210 B.C.) was erected in K'uai-chi on the occasion of the Emperor's worship of the Great Yü whose tomb was supposedly located there.<sup>36</sup>

The contents and the contexts of these pieces, composed by the ministers who accompanied the Emperor on his travels, suggest that the ministers were inspired to such heights by the religious or other observances at the respective sites that they were moved to write the pieces. The texts stop one step short of asserting that the First Emperor was being deified, but they do say, for example, that his "beneficence extends to cattle and horses"<sup>37</sup> and his "favor extends to cattle and horses and his grace enriches the lands."<sup>38</sup> They leave no doubt that no ruler in human history ever matched the achievements of the First Emperor. The K'uai-chi inscription, for example, does not extol the virtues of the Great Yü; instead it lavishly praises the social, political and other accomplishments of the Ch'in ruler. He was implicitly analogized to the gods being celebrated.

Since in each case the Emperor approved the ministerial petition to engrave the poetic laudations, they can be speculatively interpreted in at least two ways: first, as the ministers wrote them, and, second, as the Emperor understood them. The ministers probably thought that by extolling the Emperor they were enhancing his power and prestige and strengthening thereby his hold on the empire. This assertion is based upon the assumption that the texts of the inscriptions were probably circulated and known throughout the empire. From the Emperor's viewpoint the inscriptions probably were intended to assure the gods that his achievements warranted conferral of immortality. The tone of the pieces and the circumstances in which they were written lead me to believe that no mere mundane interests were paramount in the Emperor's mind. He approved the inscriptions because they established his worthiness. They proved that he deserved elevation to the company of the gods, or, at least, that he had earned immortality.

The format of the inscriptions requires a final comment. The pieces are written in exceedingly terse and frequently ambiguous four word lines; usually every third line rhymes. In my translations, I make no attempt to maintain the rhyme scheme or the prosody of the original. I

have benefitted from Chavannes' translations; Li Yu-ning's appeared after I completed mine.

In view of the repetitious nature of these data and their patent hyperbole, why has Ssu-ma Ch'ien transcribed them into his history? Three possibilities, not necessarily exclusive, perhaps answer that question. First, the historian included them because he thought they were relevant to any understanding of the Ch'in regime. They perhaps approximate, more than any other materials he had available, the yardstick by which the First Emperor would like to have been judged. They tell us what the First Emperor thought that he was doing. They are, in effect, the most "favorable press" the Ch'in founder could have expected in a history. Second, Ssu-ma Ch'ien may not have had the kinds of sources to draw upon that he would have preferred. The Ch'in capital was sacked and burned during the civil war that brought about the downfall of the Ch'in and the rise of the Han; many historical records were undoubtedly destroyed. The destructive holocaust helps to account for the uneven quality of the "Annals" and perhaps forced Ssu-ma Ch'ien to rely upon these permanent records. Third, Ssu-ma wanted to present the Ch'in, or at least the reign of the First Emperor, in the most favorable light possible and the laudatory texts certainly do precisely that. By describing the reign of the First Emperor in this manner the historian thereby held up a critical mirror by which his own emperor could be judged. Ssu-ma Ch'ien's antipathy toward the autocratic and demanding Emperor Wu (r. 140-87 B.C.) was both institutional and personal. Emperor Wu not only forced his subjects to bear well-nigh unbearable burdens that almost wrecked the Han dynasty, but also rigorously and cruelly applied the law to subjects who aroused his wrath. Ssu-ma Ch'ien escaped the death sentence only because his punishment was reduced to castration. Hence, the great historian had plentiful reasons for conveying a highly favorable image of the First Emperor.

### *Religious Practices Honored*

Contrary to the admonitions of those representing the most rational trends in pre-imperial Chinese thought, e.g., Hsün-tzu and Han Fei-tzu, the first Ch'in emperor pursued policies and followed practices which indicate a sincere belief in the sacred in various manifestations. The most striking feature of Ch'in religious practices is the lack of systems. The modern reader of the documents easily develops the conclusion that there was no imperial religion; rather there was, at best, a modest beginning in that direction. There was also tremendous emphasis placed upon local gods of various kinds. The following discussion proceeds from the broad to the narrow; we begin with those religious observances that were imperial in scale, proceed to local deities, and conclude with the ancestral spirits of the Ch'in ruling house.

If we speculate on the religious options open to the First Emperor we might minimally generate the following polarized positions: on the one extreme, he could conceivably simply have expanded the well-established Ch'in religious observances, converting the Ch'in *state* gods into Ch'in *empire* gods. At the other extreme, he might have discounted the Ch'in state gods, because they were merely state deities, and created a series of religious ceremonies that were befitting the new empire. These options, employed here solely for analytical purposes, were apparently not perceived by the First Emperor or his advisers, for what emerged in the Ch'in

imperial era was the creation of new deities that surmounted in significance the traditional Ch'in state gods while the latter's observances were also perpetuated.

When the First Emperor traveled to the eastern part of the empire he came under the direct influence of men who were either followers of Tsou Yen's trend of thought or influenced by it.<sup>39</sup> The impact of those men and their ideas is manifested in the Emperor's well known search for immortality and in his less well appreciated search for cosmic harmony by worshipping certain major gods. These gods, the "Eight Spirits" (*pa-shen*), according to the tradition of the time, had been worshipped in earlier periods but their worship had been cut off. Ssu-ma Ch'ien suggests, however, that these gods had never been worshipped, for he asserts that there is no evidence of their worship. The First Emperor "restored" honor to them, which is probably to say that he created them under the guidance of the thinkers and religious men of the area. Three of the eight gods received more attention than the others; we concentrate on those three: the God (Lord?) of the Yang Force (*yang-chu*), the God (?) of the Four Seasons (*ssu-shih-chu*), and the God (?) of the Sun (*jih-chu*).<sup>40</sup>

The First Emperor worshipped the God of the Yang Force at Chih-fou Mt. on at least two occasions: in 219 B.C.,<sup>41</sup> when, according to the *Shih-chi*, he erected a stele there; and in 218 B.C., when he erected another inscribed stone. The second stele is the one transcribed by Ssu-ma Ch'ien (see above). We do not know any of the specific expectations of the Emperor on the occasion of these religious celebrations; we can only guess on the basis of the name of this god. The Emperor probably prayed for cosmic harmony. Ssu-ma Ch'ien informs us, in a vague way, that the Emperor also worshipped the God (Goddess?) of the Yin force, another of the "Eight Gods," at Three Mountains (*san-shan* 三山),<sup>42</sup> but in view of the texts erected for the God of the Yang Force and the lack of such attention to the God of the Yin Force, we must conclude that the latter was of less importance to the Emperor.

The God of the Four Seasons, worshipped at Lang-ya, one of the Emperor's favorite places on his travels, was also honored with an inscription (see above). This god was appealed to, as the name suggests, with prayers for the entire year; the year began in this geographical location.<sup>43</sup> The God of the Sun was also important for beginnings. The site (Mt. Ch'eng) of the altar for this deity was located on a promontory that jutted out from the coastline. Thus, the sun was worshipped as it began its ascent from the sea.

The most hallowed and perhaps more important political sacrifices were performed on Mt. T'ai and nearby Mt. Liang-fu: the *feng* and *shan* sacrifices. The terms *feng* and *shan* together might best be translated as "succession;" the succession sacrifice was designed to announce to Heaven and to the world that a new dynasty had succeeded to the control of all of China. The First Emperor, as we have seen, inscribed a stone to commemorate the occasion. The combination of the sacrifice and the inscription "made clear that he had acquired the *feng* (succession)."<sup>44</sup> Thus, this sacrifice also conveys the idea of a beginning, i.e., the inauguration of a new regime.

The foregoing sacrifices share several features. They were clearly imperial occasions.

Whereas the countless offerings that were made to mountain, river, and local gods were regularly performed by officials and commoners, the sacrifices to the Gods of the Yang, the Four Seasons, the Sun, (and the other of the eight gods) and on Mt. T'ai were offered only when the Emperor was present at the respective holy site. They were imperial sacrifices to the major forces of nature and to Heaven. They transcended in importance the other locally known and locally honored deities. They constitute the beginnings of an imperial religious system.

All of the religious observances noted above share the feature of concern with the beginning. Those that celebrate the *yang* force, the seasons and the sun recreate the cosmogonic moment, the hierophantic time, of creation. The sacrifice on Mt. T'ai performs the same role but in a more limited and specifically political mode. The moment of creation is the pure time, the strong time; it is also eternal time and bespeaks eternity.<sup>45</sup> Accordingly, we may conceptualize a dual function for these sacrificial occasions. They are manifestations of sacred concern for the well-being of the empire. They seek to assure full cosmic, including political, harmony by recreating the *illud tempus* when all was unsullied and fresh, i.e., the perfect time of creation. But they can also be viewed as serving a personal function in the First Emperor's search for immortality, for the act of returning to the beginning means that one starts afresh, that there is a renewal of life. There is no reason to believe that we have to choose one of these functions over the other. They were both valid to the Emperor and his officials.<sup>46</sup>

Imperial religious concerns were manifested in other ways as well. The First Emperor prohibited the worship of *Ming-hsing* 明星, the "Bright Star."<sup>47</sup> The "Bright Star" is identified with the planet Venus which is correlated with the direction West, with the military, and with killing.<sup>48</sup> Ssu-ma Ch'ien does not explain this prohibition, but the attributes of Venus suggest that the Emperor acted out of fear and that he sought to protect himself by disallowing religious ceremonies that focused on this planet. In another context we are informed that the imperial bureaucracy included 300 men who specialized in observation of stellar auras.<sup>49</sup> The conclusion is that the Emperor was sufficiently concerned with stellar phenomena that he blocked the worship of one star god and maintained a sizable staff whose primary duty was apparently to guide him on the basis of their observations of heavenly bodies. He obviously treated such matters with considerable concern.

The mythical emperors of high antiquity, Shun and Yü, were also honored by the First Emperor. In 211 B.C. Shun was presented sacrificial offerings at a distance from his alleged burial place, and Yü was honored with a sacrifice at K'uai-chi where a stele lauding the Ch'in ruler was erected.<sup>50</sup> Why these observances did not occur earlier in his reign and what he hoped to gain from them (besides favorably comparing himself with Yü) is unknown. We can at least note, however, that contrary to the instructions of the Legalists, the Emperor did honor the great figures of yore who were often held up as models by members of the other schools of the period.

Local gods, including gods peculiar to the Ch'in state, received constant attention by the Emperor and the Ch'in imperial officials. Ssu-ma Ch'ien identifies by name eighteen major mountains and seventeen large rivers located in different parts of the empire which regularly received offerings from the Emperor or his officials. In the vicinity of the former Ch'in capital of

Yung there were over one hundred shrines for the worship of gods of the sun, moon, planets, rain, wind, former ministers and other gods whose names do not even allow us to identify them.<sup>51</sup> In general, even small rivers, for example, were accorded the same treatment as the major ones when the small ones were in the original Ch'in state territory. Among the Ch'in gods there was somewhat of a hierarchical order which we do not need to consider. The purposes of most of these sacrifices were to assure the world that the seasons would follow their regular course, that crops would be bountiful, and to give thanks to the gods for the bounties they had conferred.

The Ch'in regime felt compelled to continue to honor local gods, even though such ceremonies may have helped to maintain local identities. That is, the Ch'in state imposed itself over local religious customs by adopting the sacred observances of the states that it had vanquished. The dynasty thus conveyed the idea that it supported the local sacred sites and in turn should be supported for that reason. The seriousness with which the state granted support to these religious endeavors also indicates the genuineness of belief in these gods. The Ch'in regime was certainly no areligious, coldly rational, Legalistic empire.

Ancestor worship was another feature of the Ch'in ruling house as exemplified in the activities of the First Emperor. The Emperor seems to have been well aware that the creation of the empire was not due to his efforts alone; his ancestors had initiated the process of empire building generations earlier and the completion of the task had fallen to him. His respect for his ancestors and their powers are manifested in several documents from the period. Immediately after the conquest of the last opposition state, when the First Emperor asked his ministers for advice on a new title suitable for a man who ruled the world, the preamble of his request reads, in part: "I, the Lonely One, insignificant in my own person, raised troops to punish the cruel and disorderly. I relied upon the spirits of my ancestral temple, and the six kings all admitted to their crimes. The world was grandly stabilized."<sup>52</sup> Later in the same first year as emperor, he invoked his ancestors again: "I have relied upon my ancestral temple, and for the first time the world has been stabilized. If we again establish kingdoms (i.e., fiefs), this act would constitute the creation of troops" and jeopardize the newly established order.<sup>53</sup> The stele that was erected on Mt. I in 219 B.C. contains the following passage:

In his twenty sixth year, the superior one was presented with the exalted title. His way of filial piety was manifestly brilliant.

Accordingly, he offered [to his ancestors? to the gods?] a great achievement and there then descended a special grace....<sup>54</sup>

The inscription quoted here is from the one Ch'in inscription not quoted in Ssu-ma Ch'ien's text, but note the remarkably similar tone in another inscription, also dated 219 B.C. and found in Lang-ya:

Now the August Emperor has unified all within the four seas and made it into commanderies and prefectures. The empire is in harmony and at peace.

He has thrown a brilliant light on his ancestral temple. He embodies the Tao and practices virtue. His honored title is grandly complete.<sup>55</sup>

These passages indicate that ancestor worship was an essential part of the religious thinking of the First Emperor and his ministers (the latter composed the poems found in the inscriptions). Since ancestor worship is often associated with Confucianism, and sometimes linked inextricably with it in the American popular mind, might we therefore conclude that the First Emperor, viewed from the perspective provided above, was a Confucianist? The answer cannot be unequivocal. I doubt very much that the Emperor thought of himself as a Confucianist, but Confucianists of the time may very well have been inclined to approve of him and his regime because he did pay due respect to his ancestors.

Having raised the question of the position and role of gods in the Ch'in empire, we must ask one other question: Was the First Emperor himself a god? A definitive answer to that question will have to await a thorough study of the phenomenology of early Chinese religion, for at least a part of the ultimate answer to that question depends upon where immortals fit within the world of gods. For the present we will have to content ourselves with the following observations: first, the Emperor sought diligently for immortality; second, he was occasionally referred to as a man with godlike qualities. If immortals were gods, then, ridiculous as it sounds, we must conclude that the First Emperor was not a god, but he labored himself and others so that he could become a god.

The Emperor's search for immortality is so well known that the general outline needs no reiteration.<sup>56</sup> It is a recurrent theme throughout his reign and even the Emperor commented on how costly the search was.<sup>57</sup> Nevertheless, the Emperor's determination to achieve immortality seems never to have flagged. His boundless faith in one of the immortality seekers is indicated in his treatment of Hsü Shih. Although Hsü was among those charged with incurring such horrendous expenses without any results, when the case leading to the so-called Burial of the Scholars arose in 212 B.C., the Emperor decreed that the investigation of the scholars had to be limited to those then in the capital. This limitation allowed Hsü, apparently not then in the capital, to escape the persecution. Hsü, two years later, was still trying to reach the spirits on the fabled islands east of China.<sup>58</sup>

Numinous attributes were a part of the imperial position and the Emperor's person. The selection of *huang-ti* as the imperial designation suggests this characteristic. On several occasions ministers referred to such qualities when addressing the Emperor. Li Ssu, for example, said: "Now, owing to the divine power [*shen-ling* 神靈] of Your Majesty, everything within the seas is bound into one unit...."<sup>59</sup> Chou Ch'ing-ch'en, lauding the Emperor in 213 B.C., asserted: "Relying upon Your Majesty's divine power and numinous sagacity (*ming sheng* 明聖), Your Majesty has pacified and stabilized all within the seas."<sup>60</sup> Does *shen-ling* mean divine power (or following Chavannes, divine inspiration)? Does *ming-sheng* mean numinous sagacity or simply brilliant sagacity? We do not yet know. Did the speakers, Li and Chou, have something quite specific in mind or were they simply using, without any clearly articulated

belief, laudatory terms designed to flatter the Emperor? To some, at least, the spiritual and godlike qualities of the Emperor were probably quite genuine.

The Emperor himself perhaps felt that he had or was in the process of developing supernatural qualities. His decision to refer to himself as *chen-jen* 真人, a Realized Man, suggests one of these conclusions. In 211 B.C. when someone allegedly carved on a fallen meteor: "The First Emperor will die and his lands will be divided" the Emperor responded in several ways. He killed all of those who lived in the vicinity of the stone since none of them would admit to inscribing the message. He destroyed the stone. And finally he ordered erudites (*po-shih*) to compose a "Song of the Immortal and Realized Man" (*hsien-chen-jen shih*). They were to travel to the parts of the empire that the Emperor had visited and transmit orders to musicians to sing and play this piece.<sup>61</sup> If we combine references to the Emperor's necrophobia (attested to not only by the foregoing anecdote but also in another passage in which Ssu-ma Ch'ien informs his readers that the Emperor detested talk of death and that no minister dared to talk of matters pertaining to his death<sup>62</sup>) with his search for immortality, the ministerial references to him in godlike terms, the assertion that his powers influenced the fertility of cattle and horses, and his orders to have songs played and sung, then the totality of the tantalizingly illustrative but evidentially incomplete data warrant the cautious conclusion that many men of the time believed that the Emperor had divine qualities and that the Emperor wanted all to believe that he possessed them. The Emperor desired desperately to become an integral part of the religious world in which he lived. That world loomed large in the Emperor's activities. He obviously was not a mere Legalist ruler. Before we can even discuss his commitment to Legalist principles we must look upon the Confucian qualities also evident in his activities.

### *Confucian Values Extolled*

Confucian values were far from dead in the Ch'in dynasty; indeed, they were supported and some of them were personified at times by the First Emperor himself. In the following paragraphs, we shall survey the Ch'in commitment to *yin-yang wu-hsing* ideas, to such Confucian values as filial piety, benevolence, propriety, and righteousness, and to institutionalized support for Confucian ideas. My express purpose is to weaken the image of the Ch'in as a Legalist regime.

*Yin-yang wu-hsing* ideas, in spite of the earlier efforts of Tsou Yen, Lü Pu-wei, and perhaps Mencius, were not as fully accepted in Ch'in times as they were to be in Han. That is, there was no ideology in the Ch'in period that was built so much around these ideas as was to be the case in Han times, particularly after the efforts of Tung Chung-shu and others. Considerable uncertainty existed with regard to where Ch'in fit within the cosmic flow of history; thus, the pre-imperial state of Ch'in had variously honored different elements/colors. Duke Ling (r. 425-415 B.C.) sacrificed to the Yellow Emperor as well as to the Fire Emperor; Duke Hsien (r. 384-362 B.C.), responding to a "rain of metal," erected an altar where he sacrificed to the White Emperor. After the conquest of all the states, the First Emperor was told by someone that the Ch'in house had succeeded to the Chou which meant that the power of water was in ascendancy. He was also informed that Duke Wen of Ch'in (r. 765-716 B.C.) had captured a black dragon, thereby

confirming that the Ch'in house ruled by virtue of the power of water. Accordingly, the First Emperor decreed that his ruling house would honor the element water, the color black, etc.<sup>63</sup> Despite this well known proclamation, however, the Ch'in regime attempted no focused concentration on the element water and its color black. Thus, the most honored of Ch'in gods were the Lords on High worshipped at the four altars of the old homeland of Yung. These gods were not increased to five until the rise of Han Kao-tsu, when the lack of a consistent Ch'in imperial concern for water/black is demonstrated in Han Kao-tsu's creation of the Black God, the fifth one at Yung.<sup>64</sup> We have already noted that the *yang* force was honored in imperial worship more than the *yin*. There are other incongruities regarding Ch'in politics on the one hand and the cyclical forces on the other. For example, acceptance of the force water as the cosmic power of Ch'in rule would indicate that the regime could be expected to run a course of some limited duration and then be succeeded by a regime ruling by the next cosmic force. But, contrarily, the First Emperor decreed that reigns in his dynasty would be numbered and that they would reach to *ch'ien-wan*, "thousands and tens of thousands of generations" or, more literally, "a thousand ten thousand (10,000,000) generations" which sounds very much like another way of saying "forever." Ssu-ma Ch'ien was perhaps as accurate as he felt he could be when he said that the Ch'in Emperor "promoted somewhat the five conquests" system of cyclical change.<sup>65</sup> In sum, we can say only that these ideas made their mark in Ch'in times, but not that they were of paramount importance in imperial Ch'in thought. The data suggest to me that men of the Ch'in could not get along without such ideas (i.e., they were an accepted part of the Chinese world view), but those men did not know what to do with those ideas (i.e., they were not integrated into an intellectual whole; they were not part of an articulated ideology).

The materials on the Ch'in dynasty and its founder abound with references to Confucian values. We have already noted the role of the ancestral temple in Ch'in announcements. The First Emperor, upon adopting the imperial title, honored his father by conferring upon him the posthumous title T'ai-shang huang ("Grand Exalted August One"), which can be construed as an act of filial piety.<sup>66</sup> When Chao Kao and Li Ssu plotted to alter the succession they accused the Heir Apparent, Fu-su, of lack of filial piety, and the Heir allegedly complied with what he thought was his father's order to commit suicide because when a father made such a demand the son had to comply.<sup>67</sup> In the stele erected at Lang-ya, the First Emperor was praised for "harmonizing and making concordant fathers and sons."<sup>68</sup> Filial piety was obviously an important and living value in the Ch'in era.

Confucian qualifiers were applied to the society the First Emperor had created:

Decentness, uprightness, goodness, and loyalty; affairs and occupations have regularity.<sup>69</sup>

The Mt. T'ai stele of 219 B.C. refers to *li*, propriety, in a general way:

The noble and the base are separated clearly. Men and women accord with propriety....<sup>70</sup>

His last stele, at K'uai-chi, elaborates in detail on what this rejuvenated propriety means:

If one glosses over a fault and proclaims one's righteousness [e.g., if a woman] has children and yet remarries, she has turned her back on the dead and is not chaste.

He (the Emperor) has established barriers separating the interior and the exterior (i.e., women and men); he has prohibited and stopped licentiousness and excesses. Men and women are clean and sincere.

If a husband acts like a boar pig [by seducing another's wife] then killing him is not a crime. The men are adhering to standards of righteousness.<sup>71</sup>

These passages need not be taken to mean that a Confucian utopia has been created, or even that these values had full currency in the society. The point of the passages is that the ideal society depicted here is not founded exclusively on law and order or rewards and punishments; rather, that ideal society is modelled upon ideas that we customarily accept as Confucian.

The ministers in lauding the First Emperor refer to him in terms that appear to emerge from a Confucian lexicon:

His sagacity, wisdom, benevolence, and righteousness manifestly illuminate the Way and natural imperatives (*li*).<sup>72</sup>

Given this intellectual milieu, we should not be surprised to find institutional support for Confucianism at the Ch'in court.

Confucian scholars were supported at the Ch'in court as advisers even after the infamous Book Burning in 213 B.C. Indeed, the Book Burning and its aftermath provide us with data on this particular issue. A careful review of the Book Burning creates an additional and fundamental problem that deserves more attention than we can give it, namely the intentions behind the book burning. The Book Burning incident arose when an assemblage of Erudites (*po-shih*), said to number 70, wished the First Emperor long life and praised him for his many achievements. Ch'un-yü Yeh, a man from Ch'i who was apparently one of the Erudites present, admonished the First Emperor for his failure to create nobilities for his offspring, citing the Chou dynasty and earlier experiences as grounds for his argument. The First Emperor, instead of simply dismissing the remark or the man, ordered that a discussion be held on the issue of nobilities. Li Ssu's remarks remain; part of them read:

"Now Your Majesty has performed the Great Undertaking and established merit that will perdure for 10,000 generations. Emphatically, this is not something that a stupid Confucianist (*ju*, pedant?) can understand. Furthermore, Ch'un-yü Yeh's statement pertains to affairs of the three dynasties, and how are they worthy of serving as a model!"

After decrying the attention being devoted to affairs of the past instead of the norms and laws of the present, Li Ssu made his famous proposal:

Your servant requests that except for records of the Ch'in all records in the history office be burned. Except for those men in the office of the Erudites who are responsible for such things, those in the empire who have dared to store the *Poetry, Documents* and sayings of the hundred schools are all to go to the Administrators and Commandants [of commanderies] who will burn such works....

The proposal was approved, excluding certain technical works, and presumably carried out within thirty days.<sup>73</sup>

The problems associated with this incident are manifold. Bodde has already demonstrated that the order did not lead to a wholesale destruction of pre-Ch'in books.<sup>74</sup> The failure of the order with regard to its desired effect constitutes a strongly adverse commentary on the efficacy of the Ch'in as a Legalistic police state. Second, when we note that Confucian texts (so-called) in the office of the Erudites were excluded from the order we then must ask ourselves what was the intent of it? Apparently, the aim of the order was not as drastic as it is often taken to be; rather, the state sought to monopolize study of such texts. A later Erudite would still have access to these materials and might still use them to attack contemporaneous practices by referring to the models of the past. Finally, there remains an additional *Shih-chi* passage which indicates that the state's efforts regarding texts were not purely destructive. In the following year, when the alleged burial alive of the scholars took place, the Emperor reportedly said, "In the past when I collected together (*shou* 收) the books of the empire, those which were not useful were all eliminated. All of the literary and prescription scholars (*wen-hsüeh fang-shu shih* 文學方術士) that I summoned were very numerous. I wish to cause great peace to flourish by these means...."<sup>75</sup> I think we are quite correct in concluding that the book burning was accompanied by an effort to collect volumes which were brought to the capital and that at the same time the court summoned a large number of scholars to work on those texts.

There is certainly no doubt about continued state support for Confucianists and Erudites after the book burning and after the large scale punishment of various scholars. To give just two examples: Shu-sun T'ung was an expectant erudite serving at the Ch'in court when the Ch'en She uprising against the Ch'in took place, and was then promoted to the position of erudite. Later, Shu-sun T'ung, with a hundred disciples, joined Han Kao-tsu.<sup>76</sup> The Second Emperor, seeking an interpretation of the nature of the uprising, asked advice from over thirty erudites and scholars, one of whom answered him by alluding to the *Kung-yang* commentary on the *Spring and Autumn Annals*.<sup>77</sup> The evidence is not copious but it is sufficient to establish the institutional pattern which was maintained by the Ch'in empire.

In sum, Confucianism was not merely present in the Ch'in era; it provided the social norms of the society. The First Emperor himself was described in terms that could not have been other than pleasing to some committed to Confucianism. Finally, the state itself supported Confucian scholars at the court. I do not contend that the Ch'in regime was exclusively Confucian; by any definition of "Confucian" no regime in Chinese history was Confucian. But the presence of a pervasive Confucian element in the Ch'in era is undeniable. We must also note, however, that to the extent that the Confucian values were prized in this dynasty, then to that

extent the regime was also not Legalist. Clearly, Legalist elements were not lacking. We turn now to an assessment of those elements.

### *Legalist Politics Betrayed*

Much of the argument up to this point suggests that the first Chinese bureaucratic empire was not fully loyal to the principles of Legalism. In this section we shall touch upon two major themes. The first reviews some of the examples of the alleged applied Legalism of the Ch'in government; the second introduces data to indicate those areas in which governmental and imperial practices ran counter to the lessons of the great Legalists. The first theme is important because it reveals the ideals of the Ch'in ruler and his ministers. Traditionally these ideals have been treated as growing out of Legalist political thought. I am not convinced that that interpretation is warranted; nevertheless, it is offered here because of the usual treatment that such topics receive. The second theme, however, is the more important for a historical understanding of the period, for it introduces reasons for the failure of the Ch'in and tells us something about the kinds of problems faced by the Han founders. The second also symbolizes, for the traditional historian, what was typically Ch'in and typically Legalist about the regime. My point is that the more egregious actions of the First Emperor were not necessarily typical of the regime and they were emphatically not typically Legalist in inspiration. Thus, from the standpoint of the traditional approach, no distinction was made between these two themes; both were cited as evidence of the unacceptable Legalism that supposedly characterized the Ch'in regime.<sup>78</sup>

Institutions and laws are the features most often cited to denigrate the Ch'in dynasty, but the First Emperor and his ministers were justifiably proud of those features. The stele inscriptions informed the gods and the people who read them that the dynasty had not only brought domestic peace to China by eliminating the warring states but also assured long-lasting peace by the creation of commandery, prefectural, and other officials, all with clearly defined duties.<sup>79</sup> Similarly, there are repeated references in the steles to laws, norms, regulations, and models. We are informed that doubts and uncertainties have been eliminated because of these measures and that the people take pleasure in them.<sup>80</sup> By comparison:

[In the time of] the Five Emperors and Three Kings of antiquity, knowledge and teachings were not the same; laws and regulations were not clear.<sup>81</sup>

Hence, the measures wrought by the Ch'in founder far surpassed anything in the realm of law ever known in China.

We might ask if these measures must be seen as necessarily Legalist. Although tradition answers affirmatively, I am strongly inclined towards a qualified negative because commanderies and prefectures were being created and law codes were being promulgated in many states during the Warring States period. Those institutions were more a function of the political turmoil and social upheaval of the time than they were applied principles of Legalism. But the traditionalists (and there were undeniably some of them in Ch'in, such as Ch'un-yü Yeh)

looked upon the creation of local government institutions as the antithesis of the system of states of late Chou, and it was easy in after years to denounce the Ch'in for the destruction of the honored institutions of the good old days. The Han system should be seen as an attempt to preserve a living, but constrained, memory of those "feudal" days while relying most heavily on the well developed bureaucratic trend. Roughly the same comments can be made regarding the law. Neither the Han nor any subsequent regime sought to dispense with law, nor has any society as complex as imperial China's. Ascription of only a Legalist source to codified law is either Confucian propaganda or naïvete or both. This argument does not mean that developments such as local government institutions and codified law were incompatible with Legalism, or even that such developments were not associated with Legalist thought. In the broader historical evolution of the Warring States period, however, these developments also occurred in non-Legalist milieus.

Three Ch'in dynasty practices can be interpreted with minimal qualification as growing directly from the Legalist tradition. Encouraging agriculture to the exclusion of entrepreneurial activities occurs in the Lang-ya stele:

He (i.e., the First Emperor) has elevated agriculture and gotten rid of the incidental; the black-headed ones (i.e., commoners) are enriched.<sup>82</sup>

Second, in spite of the devotional activities of the First Emperor and his ritual officials, the Five Emperors and Three Kings are censured because "They falsely authorized [themselves by reference to] gods and spirits in order to deceive distant regions."<sup>83</sup> Finally, when the book burning occurred, the expectations were that those who wanted to study would approach the officials who, in the capacity of instructors, would teach the law. The intention was to follow the guidelines set forth by Shang Yang in order to assure that all would be exposed to the same materials, that all would think alike, and that all would be easily governed. But, as we have seen, the *Poetry*, the *Documents* and other texts were collected, preserved and studied in the capital.

The case against the Legalist identity of the Ch'in regime is stronger than the case for treating Legalism as its predominant characteristic. We have already noted that there was a half-hearted and ambivalent attempt, by book burning, to make the law occupy a dominant position in the socio-political thinking of the time. That position was never attained and other incidents can be cited which demonstrate that the application of the law in the Ch'in failed to follow the Legalist prescription of consistent and unbending application of the law to all. For example, in 213 B.C. the Emperor ordered that judicial officials (*nota bene*) who were not upright were to be sent to work on the Great Wall or to the southern frontier.<sup>84</sup> Again, as noted above, when the case against the scholars originated in 212 B.C., the Emperor limited the investigation to those scholars then in the capital. In both cases, the implication is that the law was not being consistently applied. In the first case, judicial officials were being more harshly treated than others; in the second case, scholars outside the capital were spared the judicial investigation that was applied to those in the capital. Worse than that, from the standpoint of the thorough-going Legalist, the cuckolded husband, according to the K'uai-chi stele quoted earlier, was allowed to kill his wife's seducer without fear of being punished for it. The state, in this instance at least,

did not maintain a monopoly on the death sentence.

Even those who would denounce the draconian justice and the harsh police state attitude of the Ch'in regime must admit to the regime's inefficiency. We have already noted the ineptness of the regime's book burning campaign. On two occasions the Emperor ordered grand searches, the first time in 218 B.C. when he was attacked by Chang Liang who tried to assassinate him<sup>85</sup> and again in 216 B.C. when the Emperor with only four bodyguards went out incognito in the capital and was attacked by brigands.<sup>86</sup> We do not know the results, if any, of the second search which was limited to the area around the capital and lasted for twenty days. The first search, carried out for ten days, failed to capture the would-be assassin--a sad commentary on the first imperial police.

My apologia for the Ch'in does not go so far as to deny that justice was at times administered with an exceptionally heavy hand. When, on the eve of the mass charges against members of the intellectual community, the First Emperor was denounced, his handling of justice was one of the major charges brought against him:

"He exclusively employs prison officials, and prison officials are personally favored. The Erudites, although a specially constituted contingent, are not used.... The Emperor takes pleasure in establishing his authority by punishments and killings. In the empire, fearing criminal charges and grasping at their salaries, no one dares to be completely loyal.<sup>87</sup>

The course of Ch'in political history after the death of the First Emperor was determined in large measure by Chao Kao who dominated the Second Emperor. The recourse to extremely harsh measures at that time is well known. The necessary observation is, however, that the milieu of that time was less a function of Legalism than of the desperate political situation. There is no question but what the institutional patterns of the Ch'in state included a high potential for oppressive politics, but I am prepared to believe that that potential was inherent in the emerging imperial institution; it was not to be attributed simplistically to Legalist thought.

The Emperor's personal predilections provide us with some of the most convincing evidence of the non-Legalist and even anti-Legalist tenor of this era. Even though the ideal Legalist ruler was supposed to be as unmoved and as unmovable as the Tao itself, the First Emperor was not above showing compassion for his subjects and trying to win their good will. The Lang-ya inscription praises the Emperor for this reason: "Showing solicitude and compassion for the black-headed ones, from morning to night he does not rest."<sup>88</sup> Again, in the Chih-fou inscription he rationalized his obliteration of the last of the contending states:

The August Emperor pitied the masses. He set forth his punitive hosts and aroused his martial virtue.

Punishing justly (righteously?) and acting with good faith, his majestic ardor reached everywhere. None did not submit.

He heatedly wiped out the strong and the cruel, and rescued the black-headed ones, stabilizing all to the four extremities.<sup>89</sup>

In 220 B.C. and again in 211 B.C.<sup>90</sup> the First Emperor granted one step in rank, presumably to heads of households. His largesse was also manifested throughout the empire in 216 B.C. when he presented to each village six *shih* (piculs) of grain and two sheep.<sup>91</sup> Gifts such as these are in violation of Legalist tenets, for they rendered uncertain and capricious rewards and punishments.

The First Emperor's autocratic inclinations also reveal his indifference to Legalist ideas. Throughout his reign the First Emperor worked tirelessly for his people; the inscriptions remind us repeatedly of his labors.<sup>92</sup> By his latter years, however, this virtue, according to disgruntled observers, had become a serious character flaw. Every matter of consequence was decided by the Emperor who took only his own counsel; officials and even the Prime Minister were faced with decisions made by "The Lonely one" which they were expected to carry out. The Emperor tried single-handedly to conduct all of the business of the empire.<sup>93</sup> These accusations were to lead to the famous "Burial of the Scholars,"<sup>94</sup> and that case itself was a consequence of imperial wrath, not dispassionate deliberation and even-handed application of the law.

The First Emperor thus violated Legalist precepts on the one hand by granting favors to his people, by showing compassionate concern for them. He also disregarded Legalist admonitions, on the other hand, by trying to rule directly instead of using his officialdom. He seems to have ignored all three legs of the Legalist tripod: first, he did not avail himself of his position (*shih*) as he was supposed to; second, he did not employ techniques (*shu*) in order to control his ministers; instead he simply showed indifference to them; third, he disregarded the law (*fa*) in moments of anger or generosity. Instead of condemning the man for being a bad, Legalist ruler, we might perhaps adjudge him as a ruler who was a bad Legalist, but only if we explain why this yardstick should be applied.

The first and most obvious conclusion of this part of this study is that we are no longer warranted in lightly referring to the Ch'in regime as Legalist. The traditional charge in earlier periods made for good politics but bad history. The statesman or thinker who was seriously worried about the autocratic inclinations of his own post-Ch'in ruler could hold up the black Ch'in as a superb example of the rapid and catastrophic fall that would occur if his own ruler allowed his inclinations to run unchecked. The Ch'in regime thus had high symbolic value in the political world of imperial China and perhaps served a useful political purpose in this guise. The other possibility also exists, however; namely, reform efforts or attempts at greater rationalization of the political process, as opposed to the humanistic concern common as an alternative, may have failed because they were tainted by reference to the Ch'in symbol of unchecked Legalism.

Ch'in was not Legalist; it was a product of its own age--an age of amalgamation, of synthesis, of eclecticism. It espoused Confucian values because those were commonly accepted

social norms of the age.<sup>95</sup> It took pride in its laws and institutions because it had done better in this respect than the other states, most of which were working in the same direction. And it adhered to religious values because in this age the gods and spirits were very much a part of human existence. It was all of these, but apparently it was not more than the sum of its parts; that is, the empire under the Ch'in did not exist for a sufficiently long time that thinkers had an opportunity to determine how the various parts could be fit together into a harmonious whole. That is another way of saying that Ch'in lacked an articulated ideology.

We are often too willing to look upon the Han as the age when imperial China really began. But in addition to the acknowledged institutional debt of Han to Ch'in, even in the realm of thought the origins of the mix that we customarily think of as typically Han owe much to Ch'in. Put another way, the "Han" synthesis is not really Han; its roots are in the Ch'in state era and its first bloom is to be found in the Ch'in imperial age.

We cannot say that the Ch'in was not legitimated because its Legalist commitment was abhorrent to the age. To the contrary, the intellectual mixture of the Ch'in seems to have been well within the accepted tradition, even though that tradition is not neatly definable. The Ch'in ruler and his ministers would have been quite acceptable intellectually precisely because of the eclectic tendencies that they followed.

#### A PAST OF WAR, A FUTURE OF PEACE

The First Emperor was keenly aware of the totally unprecedented position he occupied; never had all of China been unified under a ruler who governed through a ubiquitous bureaucracy.<sup>96</sup> In order to legitimate his position, he had to show that regimes of the distant past had fallen for good reason and that he had saved the warring world from the rulers of the immediate past. By saving China from that grim past, he justified the new political role of an August Emperor.

Early Chinese regimes, according to the stele inscriptions, failed to endure for institutional reasons; all of them, by the principles upon which they were founded, were doomed to failure:

Reflecting back upon disorderly eras: lands were divided and states established, thereby initiating the principles of [political] matters.

Attacks and warfare were daily practiced and blood flowed in the countryside. From high antiquity, [these practices] began.

Reigns [of a single ruling house] were not counted by the 10,000. Collapses have extended back to the Five Emperors. No one was able to prevent or to stop them.

Now, today, the August Emperor has made one family of the empire. Arms are no longer

taken up.<sup>97</sup>

Another inscription, also from 219 B.C., points to comparable shortcomings:

As for the emperors of antiquity, their lands did not exceed 1000 li (one li equaled about 1/6 mile).

The feudal lords each protected his enfeoffed territory. Some came to court and some did not.

They encroached upon one another and were cruel and disorderly; destruction and warfare did not cease.

.....

[In the time of] the five Emperors and three kings of antiquity, knowledge and teachings were not uniform.

Laws and regulations were not clear.

.....

Their bodies had not yet perished when the feudal lords revolted. Their laws and orders were not practiced.<sup>98</sup>

The gravity of the condemnation is difficult to overemphasize. The emperors and kings of antiquity were customarily cited by thinkers of Confucian, Mohist, and other schools as paragons of good government. The First Emperor, however, argues that their ruling houses were all evanescent for essentially two reasons: first, the existence of competing noble lords; second, the lack of universal norms and laws. His regime has solved these problems by introducing a bureaucracy to replace the lords and by promulgating laws which assure consistent behavioral patterns throughout the now much expanded empire. The new emperor, by avoiding the institution of the feudal lord, has assured not only that his regime will last for thousands of years, but also that his subjects will hereafter be spared the wars that had plagued China for countless generations. His claim to have brought peace to the world was perhaps his most important legitimating ground; we shall return to that claim, shortly.

The immediate past presented a rather different sort of problem. When the First Emperor ascended the throne as king of Ch'in in 246 B.C. his state was one of seven major states remaining in a north China that had at one time consisted of dozens of states. All seven states had been engaged in wars of expansion for generations; in this respect, Ch'in did not differ from its competitors. But the local loyalties still present in the time of the Ch'in king and emperor remained strong and viable, and the Ch'in emperor had to explain why he was justified in obliterating the six states. His first statement of this issue was made in 221 B.C., immediately

after the conquest of the last state; his last apology for conquest was engraved in 210 B.C., the year of his death. Obviously, the issue continued to irritate the Emperor and his contemporaries. Perhaps more significant than the perdurability of the problem was the transformation of the answer to it.

His argument began in modest, legal terms and ended in malicious denunciations. Shortly after completing the conquest of his last competitor, the Ch'in ruler issued an edict in which he asked his advisers to help him devise a new title that reflected the elevated dignity that control of China now brought him. The preamble of that famous document<sup>99</sup> suggests that the First Emperor was a reluctant conqueror, a suggestion that is not easy to accept in view of the determination with which the emperor and his predecessors had pursued the absorption of all the states. He observed that the King of Han had surrendered his seal to the King of Ch'in with the request that he become a foreign subject of the Ch'in house. Shortly, however, the King of Han violated the agreement, Ch'in was forced to mobilize troops, and the Han king was captured. "I, the Lonely Man, considered that this was good and that we had probably put an end to fighting." Capture of the King of Han did not cause the endemic warfare to cease, but in each case fighting was resumed only because one of the states violated an agreement with the state of Ch'in and in each case the termination of fighting coincided with the obliteration of the offending state. The First Emperor concluded: "I, the Lonely One, insignificant in my own person, raised troops to punish the cruel and disorderly. I relied upon the spirits of my ancestral temple. The six kings all admitted to their crimes. The world was grandly stabilized." With the exception of this one reference to "cruel and disorderly" kings, the reiterated line of argument is that the kings had broken agreements, violated legally binding contracts with the Ch'in ruler; only because of their illegal actions had he been forced to raise troops and suppress the wrong-doers.

In steles of 219, 218, 215 and even as late as 210 B.C., the First Emperor and his advisers felt compelled to defend their destruction of all the states of China. The last inscription is the most detailed and deserves quotation for it demonstrates the extent to which the argument had become increasingly *ad hominem*.

The six kings devoted themselves exclusively to rebellion. They were avaricious, violent, contemptuous and fierce. Leading their masses they personally strengthened themselves.

They were cruel and unrestrained. Flaunting their strength they became arrogant. Repeatedly they mobilized their armored warriors.

Secretly communicating and covertly sending emissaries, they served the cause of vertical (northern-southern) alliances. In their conduct they were heedless.

Domestically, they glossed over their deceitful schemes. Externally, they came to encroach upon our borders. Thereby they created calamities and disasters.

The righteous authority<sup>100</sup> [of the First Emperor] punished them. He has exterminated

and extinguished their violence and perversity. The disorderly bandits have been exterminated.<sup>101</sup>

The kings had not merely broken solemn agreements with the First Emperor, they had deceived their own subjects. Further, through their perverse actions they had engendered calamities and disasters. They were evil men who caused great suffering by all the people. They therefore deserved to be removed from the earth. The First Emperor had saved the world from further ravages.

The argument against the former kings, who had in an earlier era been feudal lords,<sup>102</sup> can be interpreted as a double attack against former institutions. In the first place, the ruler was justifiably concerned over the earlier local identities. Not all members of the older royal families had been killed (in fact, they were probably well provided for; see below) and within a year after the death of the First Emperor, as civil war broke out in the eastern part of China, all of the old royal families were reestablished. In 211 B.C. a commoner had inscribed a meteor: "The First Emperor will die and the land will be divided."<sup>103</sup> The reference to land division was probably meant to refer to a reinstatement of feudal institutions. Thus, there seems to have been a rather strong desire to reject the Ch'in imperial bureaucracy and to restore institutions of the immediate past. Secondly, even within his own regime, the First Emperor was subjected to pressures to create fiefs for his sons and deserving ministers.<sup>104</sup> His rejection of that advice led to the famous "Burning of the Books." The institutional problem was thus a continuing one. The First Emperor seems to have solved it for his own time, but certainly not permanently.

Unification of the Chinese world brought domestic peace and the Ch'in peace was probably one of the most effective contributions the First Emperor made in his legitimation. Every stele refers to the peace and stability he had brought to his land. (See, for example, the Chih-fou inscription quoted on p. 165 above).

His contributions to peace were expressed in a variety of ways not limited to laudatory inscriptions. He ordered that all the arms of the empire be confiscated and recast into statues to grace the palace grounds. While building the Great Wall in order to protect China from its northern neighbors, he also ordered that city walls within China, the symbol of the city as a defended fortress, be destroyed. These actions provided highly visible proof that the emperor was freeing his subjects of the terrors of war. Although we have no expressions of appreciation for the peace he brought to China, I am strongly inclined to believe that the end of civil wars must have been one of the most popular of all the achievements of the First Emperor.<sup>105</sup>

## REGULAR ADMINISTRATION AND REGULATING LAWS

The ruler of Ch'in held up two images of life: the days of bitter bloodshed of the past, an image that was now only a bad memory, and the days of well ordered life of the present and future. The latter may be dimidiated into a discussion, first, of his new bureaucratic order and the universal laws of his regime, and, second, of the new social order that he was bringing to

China.

Local areas as well as states, in the pre-unification period, had been in the administrative hands of noble families, and governmental practices and norms had differed from one area to the next. Some of the states, several centuries before the Ch'in conquest, had already begun to introduce local administrative systems, but the Ch'in house was the first to extend the new governmental structure to all of China, by dividing the empire into commanderies which were subdivided into prefectures; both local level units were administered by central government appointees. The stele inscriptions state that the entire administrative structure was operated without leaving anything to chance, that officialdom was superbly regulated. To quote one of the messages:

The regional governors<sup>106</sup> have separately assigned duties, and their governance is direct and easy.

Recommendations and employments [of officials] are invariably appropriate.<sup>107</sup> None is not according to plan.<sup>108</sup>

And with boundless certitude people were assured in another stele: "The officials with their duties conform to their allotted roles, each knowing what he is to do. Affairs have no ambiguities nor uncertainties."<sup>109</sup> Clearly the subjects of the Ch'in empire could rest more easily now that the deceitful lords of an earlier era had been supplanted by the regularized bureaucracy.

Remarks pertaining to laws, regulations, models, etc. permeate the inscriptions. In his statements, the First Emperor claimed credit for introducing a new legal order into China, a legal order that satisfied all:

The August Emperor has come to his position.

He has initiated and instituted brilliant laws. Ministers and inferiors are regulated and ordered.

.....

The way of good government is carried out everywhere.

All creatures get what is fitting; all have laws and models.

.....

His transformations will extend without limit.

Respectfully accept the edicts he hands down. Receive

them forever and double your precautions.<sup>110</sup>

Another inscription, also from 219 B.C., states:

In the twenty-eighth year, the August Emperor made the beginning. He arranged and equalized the laws and measures and the regulations for the myriad beings.

.....

He eliminated doubts and fixed the laws; all know what to avoid.<sup>111</sup>

He assured his contemporaries "People take pleasure in uniform rules. They delight in maintaining great peace."<sup>112</sup>

If we had only these documents we might conclude that the First Emperor was strikingly successful in gaining acceptance for his regime precisely because he introduced to China a new era of law and order. Indeed, we lack any evidence from his lifetime that indicates wide-scale popular dissatisfaction with his regime, although such evidence does appear within a year after his death when his successor pursued a policy of exceedingly harsh application of the laws. As noted above, there was unequivocal opposition to the First Emperor's policies and bitter objections to his character by a group of intellectuals at the court. We have what purports to be a record<sup>113</sup> of a conversation between two men, one of whom described the Emperor as "endowed by Heaven with a nature that is unyielding, cruel, and egotistical." The Emperor was charged with exclusively relying upon judicial officials and of "taking pleasure in establishing his authority by punishments and killings." Even worse, those officials with their carefully articulated duties were not what the steles tell us they were: "In the empire, fearing criminal charges and grasping at their salaries, no one dares to be completely loyal. The Superior One will not hear of faults and becomes daily more arrogant; the inferiors fearfully submit and deceitfully cheat in order to curry favor." The officials who participated in this conversation then quit their posts in disgust. The Emperor retaliated by ordering an investigation of the scholars in the capital; the investigations led to mutual recrimination as each scholar tried to exculpate himself. The result of the whole affair was that 460 scholars were found guilty of violating regulations and sentenced to death. This incident compares only with the Burning of the Books as one of the gravest charges levied against the First Emperor.

How are we to judge these conflicting pictures? I am strongly inclined to believe that the effort to create law and order probably outweighed the massacre of the scholars in the First Emperor's attempt to legitimate his dynasty. We have noted that the treatment of the 460 scholars did not prevent other scholars from serving the Ch'in throne. Hence, the death of the scholars is not to be interpreted as the death of scholarship or Confucianism in the Ch'in period.<sup>114</sup> Furthermore, rebellions against the Ch'in did not break out until after the death of the First Emperor. Finally, given the chaotic, disorganized world before 221 B.C., it is difficult for

me to believe that the Ch'in legal system, in spite of its harshness, would not have been warmly received by most of the people of the time.

## SOCIAL ORDER

The Ch'in dynasty lasted such a short time and followed a period of such social and political disorder that understanding the nature of Ch'in society is far from easy. The records that still exist show that the Ch'in government sought to maintain a watchful eye on the old nobility while treating it fairly well; it also sought to win popular support by granting steps in rank to commoners. The inscriptional data do not specifically mention any of these policies but they do inform us of certain key aspects of the social ideals of the regime.

The old nobility was not physically eliminated when the Ch'in arose, although all of the reigning kings were killed. Instead of such drastic measures, the government, whenever it defeated a ruling family, had exact drawings made of that family's palaces and homes; on the basis of those drawings replicas of the original dwellings were built in the vicinity of the Ch'in capital, to which the conquered families were moved.<sup>115</sup> Presumably some kind of pension arrangements were made for these families, although we are told absolutely nothing about any financial settlements. The removal of these families permitted better surveillance of them and also added to the glory of the Ch'in capital. For some of these families, forced removal to the environs of the capital must have created great discomfort; others may have been relieved and even pleased at the prospects of living near the political center of the empire. A general appraisal of the consequences of this policy is beyond me.

On two occasions, as noted above, the First Emperor granted one step in rank to the head of each household in the empire. These steps were cumulative and the higher one's rank the more favors one might receive. For example, having attained a certain step meant that one no longer had to serve local corvée duties. Also, steps in rank could be surrendered in lieu of certain punishments. This rank system was of considerable social significance; in effect, it meant that the social position of everyone in the realm was to be determined by the state. The highest positions in the rank system went only to major officials; a commoner, however wealthy, could not derive from his wealth the same privileges that rank conferred. The system had the added advantage of making every commoner realize that he was now part of an empire-wide social system that culminated in the emperor himself. Since grants of steps in rank were marks of imperial largesse the throne could use the system to gain support from the populace.

The predominant positions in Ch'in society went to the members of the new imperial bureaucracy. In this system, opportunities for employment and advancement depended upon one's education and merit; ascription did not function in this society. One would have to conclude that there was considerable optimism about the prospects for one's self and one's offspring in the Ch'in era.

The First Emperor's social values may, however, have contributed to the demise of his

dynasty in a totally unanticipated manner. When he eliminated the traditional nobility and yet failed to cloak himself alone with a monopolized aura of numinous choice, he was, in effect, saying that others could also rise to the throne. He had created a potentially unchecked socio-political mobility. The first rebels were commoners, one of whom made himself King of Ch'u. The ultimate victor in the civil war, the founder of the Han dynasty, while not an illiterate commoner was not a scion of a noble family. The First Emperor of the Ch'in apparently assumed that his legitimation as king of Ch'in was transferable to the whole empire (when bolstered by certain other claims), but in a non-noble world that fundamental assumption would not preclude attempted power seizures by non-nobles.

## CONCLUSIONS

The right of the First Emperor to govern all of China depended on a group of factors acceptable to himself and to his subjects. That is, there was little in his regime that was based upon brute force, and certainly his empire did not operate only on the basis of possession of power. He could justify his conquest of the other states on legal grounds; they had wrongfully violated agreements with him that were legally binding on both parties. The legal aspect of his rise to imperial power deserves attention. That legal relationship, as it pertained only to the heads of the various states, bears a close resemblance to Sternberger's idea of civil legitimacy: an "agreement between equally autonomous constituents who have combined to cooperate toward some common good." In this definition, however, Sternberger is referring to a system of government within a state--a situation that does not fit the Chinese case, for in the latter part of the Warring States period the Chou regime was such a non-entity that even the facade of an all-encompassing polity was no longer tenable. The significance of the First Emperor's legal position lies in the ethical accusations that could be raised against those who violated the agreement. His opponents, by desecrating the concords, had placed themselves in a morally indefensible position. The Ch'in ruler had been wronged and could cloak himself in righteousness in attacking his competitors. Among the accusations levied against the Ch'in regime during the rebellion against it, restored rulers of Ch'in's former competing states never charged that their states had been wrongfully obliterated. *Ex silentio* arguments are never strong, but in this case there is little alternative, and perhaps considerable weight. Violation of legal agreements would have been perfectly understandable in the First Emperor's era, and morality was clearly on his side.

Ch'in ideology was never fully articulated, but the ideas expounded and supported by the Ch'in ruler (largely as revealed in the inscriptions, but also through state support for erudites of the Confucian persuasion) corresponded closely to the intellectual trends of the time. On the one hand, this correspondence means that Ch'in thought at the time (but not later, of course) could scarcely have been interpreted, either by commoners or by officials, as monolithic Legalism. On the other hand, through governmental largesse, religious services, ancestor worship and espousal of Confucian morality the Ch'in regime accommodated itself to the world of varied ideas that was typical of the late Warring States period. The godlike qualities sometimes attributed to the First Emperor are difficult to explain in the context of the thought of the period, not because they

are incompatible with it but because the thought itself had not developed to the point that such questions could be satisfactorily answered. What were the sources of his godlike powers? In a later age, with the growth of the concept of the Mandate of Heaven, that question could be answered, but in the generation of the First Emperor the truth must have been self-evident. On the basis of the ill-defined ideology of the Ch'in, I cannot understand why his subjects would have denied his legitimacy.

One of the most outstanding factors in the favor of the Ch'in ruler was the domestic peace that he brought to all people. Generations of people in most of the states of China had been forced to leave their homes on campaigns or to defend their countryside from enemy armies. The final victory of the Ch'in forces eliminated the worry of war. Commoners as well as officials could now look forward to a relatively secure world. People of the time did not have to pay an inordinately high price for this peace; they did not surrender civil liberties (which they did not have) and in the early years of the regime, at least, they did not pay exorbitant taxes. The highly intangible contribution of peacemaking probably constitutes one of the more important elements in legitimation. Whether the peacemaker is an elected official or a god-king is perhaps irrelevant to this aspect of legitimation; peacemaking is mundane but it is also immediately appreciated.

The peace of the First Emperor applied also to domestic affairs. His bureaucracy and his laws assured a smoothly operating society and polity in which people could pursue their various callings. Both the farmer and the scholar (but probably not the merchant) could feel secure, for there was now to be a regularity and a predictability that was largely unknown in earlier ages. Particularly those who were interested in official careers would have found the new social and political order highly attractive. They had much to gain by conferring legitimacy on the new regime.

In sum, the First Emperor succeeded brilliantly in legitimating his empire. The Second Emperor and his advisers proceeded speedily to delegitimize it.

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<sup>1</sup> See his article, "Legitimacy" in *International Encyclopedia of the Social Sciences*. For much of the following discussion I have also drawn upon Robert A. Dahl, *Modern Political Analysis*, (Englewood Cliffs: Prentice-Hall, Inc., 1970).

<sup>2</sup> There are no footnotes to the first section of this paper because (1) most of the material is very well known and (2) most of my conclusions in this section derive not from what the thinkers said but from what they omitted.

<sup>3</sup> The little that we know about Tsou Yen and his ideas is either summarized or quoted in most general

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histories of Chinese thought.

<sup>4</sup> I cite two editions of the *Lü-shih ch'un-ch'iu*. The first is the I-wen yin-shu-kuan edition to which the Centre franco-chinoise index to this work is keyed. The other is the more critical edition of Yin Chung-jung, *Lü-shih ch'un-ch'iu chiao-shih* (Taipei: Chung-hua ts'ung-shu series, 1958). The first is cited by traditional pagination; the second, by Western. "Lscc 14/1a; 11" thus means p. 1a of chuan 14 of the first edition and p. 11 of the second edition. Richard Wilhelm's translation of this work has recently been reprinted with a new forward by Wolfgang Bauer.

<sup>5</sup> Lscc 15/14a; 35.

<sup>6</sup> Yang K'uan. *Ch'in shih-huang* (Shanghai: Jen-min chu-pan-she, 1956), 22.

<sup>7</sup> Lscc 17/15a-18a; 66-68.

<sup>8</sup> Lscc 4/9a; 196.

<sup>9</sup> Lscc 2/6b; 178.

<sup>10</sup> Lscc 11/9a; 250.

<sup>11</sup> Lscc 22/3b, 4a, 4b; 124-125.

<sup>12</sup> Lscc 5/4b; 201 and Yin's introduction, pp. 26-27.

<sup>13</sup> Lscc 17/7b; 61.

<sup>14</sup> Lscc 12/10b; 259.

<sup>15</sup> Lscc 18/9b; 77.

<sup>16</sup> Yin's introduction, p. 25.

<sup>17</sup> Lscc 4/3a-4b; 192-193.

<sup>18</sup> *The Complete Works of Han Fei Tzu, A Classic of Chinese Political Science*, trans., W. K. Liao. London: Arthur Probsthain, 1939 and 1959. References are to Liao followed by volume and page numbers. In this case, Liao II, 212-216. Liao's translation is often faulty; furthermore, he has made little attempt to comment on the authenticity of the individual chapters. In order to compensate for these weaknesses, I have consulted Ch'en Ch'i-t'ien, *Han Fei-tzu chiao-shih*, Shanghai: Chung-hua shu-chü, 1940. I refer to him by name and page number; in this case Ch'en, 88-97. The authenticity of many of the chapters has been considered by Jung Chao-tsu's *Han Fei-tzu k'ao-cheng*, Shanghai: Commercial Press, 1936. However, we should note that Jung's work is in many ways a product of the trend of his generation to debunk earlier works. Ch'en often serves as a helpful corrective to this trend. Jung's work is cited the same as Ch'en's; hence in this case, Jung, 23a-24b. Both Ch'en and Jung take the "Ting-fa" chapter to be authentic.

<sup>19</sup> See, for example, chapter "Ku-fen" in Liao I, 97-105; Ch'en, 317-329; and chapter "Ho-shih" in Liao I, 113-116; Ch'en, 330-336; Burton Watson, *Han Fei Tzu: Basic Writings*, New York: Columbia University Press, 1964, 80-83. Hereafter Watson, *Han*. The first of these two chapters is accepted by both Ch'en and Jung as by Han Fei. Ch'en accepts the second chapter as Han's and points out that Jung's doubts about it are ill founded.

<sup>20</sup> Kung-chüan Hsiao, (F.W. Mote, trans.), *A History of Chinese Political Thought Vol. I: From the Beginnings to the Sixth Century A.D.* (Princeton: Princeton University Press, 1979), pp. 399 ff.

<sup>21</sup> The following discussion draws heavily upon Leon Vandermeersch, *La formation du légisme, Recherche sur la constitution d'un philosophie politique caractéristique de la Chine ancienne*, in

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*Publications de l'École française d'extrême-orient*, volume XLI, Paris: École française d'extrême-orient, 1965, particularly Chapter XI, "Legisme et taoisme." For views that differ markedly from Vandermeersch's and mine, see, e.g., Herrlee G. Creel, *Shen Pu-hai, A Chinese Political Philosopher of the Fourth Century B.C.*, Chicago: The University of Chicago Press, 1974, particularly Chapter 11, "Shen-Pu-hai and Taoism" and especially p. 194, n. 121; Frederick W. Mote, *Intellectual Foundations of China*, New York: Alfred A. Knopf, 1971, who refers to Han Fei as "this misguided genius."

<sup>22</sup> Vandermeersch, *Legisme*, 265.

<sup>23</sup> See, for example, the "Pa-ching" chapter in Liao II, 258-274; Ch'en, 172-203 and the "Wu-tu" chapter in Liao II, 275-297. Both chapters are accepted as authentic by both Ch'en and Jung.

<sup>24</sup> See the "Chung-hsiao" chapter in Liao II, 311-318; Ch'en, 893-901. Although some doubts have been raised regarding the authenticity of this chapter, Ch'en and Jung both accept it.

<sup>25</sup> See the references to the "Pa-ching" chapter in note 23 above.

<sup>26</sup> For an interpretation that the motivation for erecting the monuments was to push the Legalist line, see Feng Tso-che, et al., "Ch'in k'o-shih shih Ch'in Shih-huang t'ui-hsing fa-chia lu-hsien ti li-shih chien-cheng," *K'ao-ku*, No. 1, 1975, 1-6.

<sup>27</sup> The text of it is found in the commentary to Ssu-ma Ch'ien, *Shih-chi*, 6/32; hereafter *SC*. The *SC* edition used here is Takikawa Kametaro's *Shiki kaichū kokōshō* in the I-wen yin-shu kuan edition. This stele is translated in Edouard Chavannes, *Les memoires historiques de Se-ma Ts'ien* (Leiden: E. J. Brill, 1967), II, 551-553; hereafter Chavannes, *Mh* plus volume and page numbers.

<sup>28</sup> Wang Ch'ang, citing the *Shui-ching-chu*, suggests this interpretation; see his comment to *SC* 6/32.

<sup>29</sup> Text: *SC* 6/33-34; trans., Chavannes, *Mh*, II, 140-142.

<sup>30</sup> Text: *SC* 6/36-40; trans., Chavannes, *Mh*, II, 145-151; Li Yu-ning, ed., *The First Emperor of China* (White Plains, N.Y.: International Arts and Sciences Press, Inc., 1975), 272-274. According to the commentators, the prose part which occurs about two-thirds of the way through the *SC* text of the inscription has been misplaced and should be read as a preface to the piece. This reading makes no difference regarding the contents, but it does remind us of the faulty condition of the *SC* text itself.

<sup>31</sup> Text: *SC* 6/42-43; trans., Chavannes, *Mh*, II, 157-159 and Li, *First Emperor*, 275-276.

<sup>32</sup> Text: *SC* 6/43-44; trans., Chavannes, *Mh*, II, 159-162 and Li, *First Emperor*, 276.

<sup>33</sup> Text: *SC* 6/45-46; trans., Chavannes, *Mh*, II, 165-167 and Li, *First Emperor*, 277. Part of this inscription has been transposed and part is missing.

<sup>34</sup> Wang Hsien-ch'ien's *Han-shu pu-chu*, 26/32b (I-wen yin-shu-kuan ed.)

<sup>35</sup> *SC* 28/26; Watson, *Records*, II, 26.

<sup>36</sup> Text: *Sc* 6/62-65; trans., Chvannes, *Mh* II, 186-189 and Li, *First Emperor*, 284-285.

<sup>37</sup> *SC* 6/38; Chavannes, *Mh*, II, 166 and Li, *First Emperor*, 273.

<sup>38</sup> *SC* 6/45; Chavannes, *Mh*, II 166. Li's understanding of this passage (*First Emperor*, 277) is quite different.

<sup>39</sup> Ssu-ma Ch'ien leads us to this conclusion. Actually, there is every reason to believe that these ideas were well known in the Ch'in capital as evidenced, for example, in the work of Lü Pu-wei.

<sup>40</sup> On the "Eight Spirits" see *SC* 28/21-23; trans., Watson, *Records*, II, 24-25

<sup>41</sup> *SC* 6/35; Chavannes, *Mh*, II, 143; Li, *First Emperor*, 271.

<sup>42</sup> *SC* 28/35; Watson, *Records*, II, 30.

<sup>43</sup> *SC* 28/23; Watson (*Records*, II, 25) has misunderstood a key phrase regarding the role of this god.

<sup>44</sup> *SC* 28/21; cf. Watson, *Records*, II, 23 where the phrase is rendered ". . . to make clear to all that he had succeeded in performing the Feng sacrifice." For comments on the meaning and origin of the *feng* and *shan* sacrifices, see Howard J. Wechsler, *Offerings of Jade and Silk, Ritual and Symbol in the Legitimation of the T'ang Dynasty* (New Haven: Yale University Press, 1985) especially Chapter 9 which

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is devoted to this subject.

<sup>45</sup> Mircea Eliade, *Pattern in Comparative Religion, A Study of the Element of the Sacred in the History of Religious Phenomena* (Cleveland: The World Publishing Company, 1963) Chapter XI, "Sacred Time and the Myth of Eternal Renewal" and idem., *The Sacred and the Profane, The Nature of Religion* (New York: Harper Torchbooks, 1961) Chapter II, "Sacred Time and Myths." One can only lament that Eliade's brilliant insights have been so little applied in studies of Chinese intellectual and religious history.

<sup>46</sup> Ssu-ma Ch'ien suggests this conclusion in the way in which he introduced and treated these materials; see *SC* 28/21 ff; Watson, *Records*, II, 24 ff.

<sup>47</sup> *SC* 6/49; cf. Chavannes, *Mh*, II, 169 and note 2 where the understanding of the text is taken quite differently; Li (*First Emperor*, 278) translates it "Morning Star."

<sup>48</sup> *SC* 27/52; cf. Yao Fan's erroneous commentary at 6/49.

<sup>49</sup> *SC* 2/56; Chavannes, *Mh*, II, 179; Li, *First Emperor*, 282.

<sup>50</sup> *SC* 6/61 and 62; Chavannes, *Mh*, II, 185 and 186; Li, *First Emperor*, 284.

<sup>51</sup> *SC* 28/28 ff; Watson, *Records*, II, 28 ff. Watson (p. 29) overlooked the place name Yung and thereby fails to indicate that the specified shrines were concentrated in Yung.

<sup>52</sup> *SC* 6/20-21; Chavannes, *Mh*, II, 124; Li, *First Emperor*, 267-268.

<sup>53</sup> *SC* 6/26-27; Chavannes, *Mh*, II, 132; Li, *First Emperor*, 269.

<sup>54</sup> *SC* 6/32 in the commentary; Chavannes, *Mh*, II, 552.

<sup>55</sup> *SC* 6/40; Chavannes, *Mh*, II, 151; Li, *First Emperor*, 274.

<sup>56</sup> For a quick review, see Watson, *Records*, II, 24 ff.

<sup>57</sup> *SC* 6/57; Chavannes, *Mh*, II, 180; Li, *First Emperor*, 282.

<sup>58</sup> *SC* 6/65; Chavannes, *Mh*, II, 190; Li, *First Emperor*, 285.

<sup>59</sup> *SC* 6/65; Chavannes (*Mh*, II, 131-132) renders *shen-ling* "l'inspiration divine." Derk Bodde (*China's First Unifier, A Study of the Ch'in Dynasty as Seen in the Life of Li Ssu*, in *Sinica Leidensia*, Vol. III. [Leiden: E. J. Brill, 1938] p. 79) provides the translation I have used here. Li, *First Emperor*, 269 has "divine might."

<sup>60</sup> *SC* 6/40-50; Chavannes (*Mh*, II, 169) here rendered *shen-ling* "la pénétration surnaturelle" and *ming-sheng* "la sagesse éclairée." Li (*First Emperor*, 278) freely conflates the four characters in the rendering "divine sagacity."

<sup>61</sup> *SC* 6/58-59; Chavannes, *Mh*, II, 182-183. My reading of this passage differs markedly from that of Chavannes; he does not, for example, interpret the passage to refer to a specific song nor does he understand the last part of the passage in the same way as I. He translates: "il chargea les lettres au vaste savoir de composer des chants sur les hommes immortels et véritables et sur les voyages qu'il avait faits dans l'empire; il remit ces chants aux musiciens en leur ordonnant de les chanter et de les jouer." I have been influenced by the reading offered in the Chung-hua shu-chu edition of the *Shih-chi*, vol. I, p. 259; cf. Li, *First Emperor*, 283, where the text has again been conflated.

<sup>62</sup> *SC* 6/66; Chavannes, *Mh*, II, 191; Li, *First Emperor*, 286.

<sup>63</sup> *SC* 28/17-20; Watson, *Records*, II, 22-23.

<sup>64</sup> 64. *SC* 28/33 and 35-36; Watson, *Records*, II, 29 and 31.

<sup>65</sup> *SC* 26/9; Chavannes, *Mh*, III, 328. Emphasis added. For a review of this issue, see Derk Bodde, "The State and Empire of Ch'in," (pp. 96-97) in Denis Twitchett and Michael Loewe, eds., *The Cambridge History of China, Vol. I, The Ch'in and Han Empires*. New York: Cambridge University Press, 1986.

<sup>66</sup> *SC* 6/22; Chavannes, *Mh*, II, 128; Li, *First Emperor*, 268.

<sup>67</sup> Bodde, *China's First Unifier*, 32-33.

<sup>68</sup> *SC* 6/36; Chavannes, *Mh*, II, 145; Li, *First Emperor*, 272.

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- <sup>69</sup> SC 6/37; Chavannes, *Mh*, II, 147; cf. Li, *First Emperor*, 273.
- <sup>70</sup> SC 6/34; Chavannes, *Mh*, II, 142; Li *First Emperor*, 271.
- <sup>71</sup> SC 6/63-64; Chavannes, *Mh*, II, 187-188; Li, *First Emperor*, 285.
- <sup>72</sup> SC 6/36; Chavannes, *Mh*, II, 145, from the Lang-ya stele; Li, *First Emperor*, 272.
- <sup>73</sup> SC 6/49-52; Chavannes, *Mh*, II, 169-174; Li, *First Emperor*, 278-280. Bodde, *China's First Unifier*, 22-24 contains a translation of a similar passage from the biography of Li Ssu. Bodde (*ibid.*, 80-84) discusses the Book Burning and also translates this passage from the "Annals." The "Annals" passage probably contains three superfluous words *kan yu ts'ang* 敢有藏. If these words are deleted, the last sentence in the quotation, which would then read more smoothly, would be: "Except for those which are the responsibility of the office of Erudites, the Poetry, Documents, and the sayings of the 100 schools are all to be taken to the Administrators. . . where they are to be burned." The words *kan* and *yu*, in reversed order, make sense in the next sentence, and it is quite possible that they have been inadvertently copied into the preceding sentence.
- <sup>74</sup> Bodde, *China's First Unifier*, 162-166.
- <sup>75</sup> SC 6/57; Chavannes, *Mh*, II, 180; Li, *First Emperor*, 282.
- <sup>76</sup> For a translation of his biography, see Watson, *Records*, I, 291-298.
- <sup>77</sup> SC 99/11; the passage, without identification of the allusion, is translated in Watson, *Records*, I, 291.
- <sup>78</sup> For an earlier attempt at disentangling the real Ch'in regime from the blameful historians, see Ch'en Teng-yüan, "Ch'in Shih-huang p'ing," *Chin-ling Hsü üeh-pao*, 1:2 (November, 1931), 301-322.
- <sup>79</sup> See Lang-ya and Chih-fou steles.
- <sup>80</sup> See the Lang-ya and K'uai-chi steles.
- <sup>81</sup> SC 6/39; Chavannes, *Mh*, II, 151, Li, *First Emperor*, 274.
- <sup>82</sup> SC 6/36; Chavannes, *Mh*, II, 145-146; Li, *First Emperor*, 272. The position expressed here is quite compatible with the well-known Legalist position, but rejects Lü Pu-wei's attempt to make such incidental activities socially and politically acceptable.
- <sup>83</sup> SC 6/39; Chavannes, (*Mh*, II, 151) renders this "Ils feignirent d'avoir un prestige comme celui des génies et des dieux--afin d'en imposer aux contrées éloignées." Li (*First Emperor*, 274) has "they posed as divine. . ."
- <sup>84</sup> SC 6/49; Chavannes, *Mh*, II, 149; Li, *First Emperor*, 278.
- <sup>85</sup> SC 6/42; Chavannes, *Mh*, II, 156-157; Li, *First Emperor*, 275.
- <sup>86</sup> SC 6/44; Chavannes, *Mh*, II, 163-164; Li, *First Emperor*, 277.
- <sup>87</sup> SC 6/56; Chavannes, *Mh*, II, 178-179; Li, *First Emperor*, 281-282. There is a historiographical and evidentiary problem here, viz., who might have recorded the alleged conversation in which this denunciation took place. Perhaps the conversation itself was created by Ssu-ma Ch'ien; the point made seems to be valid regardless of the literary device in which we find it. Given the circumstances, we are probably safe in assuming that the charges are rich in hyperbole.
- <sup>88</sup> SC 6/37; Chavannes, *Mh*, II, 146; Li, *First Emperor*, 27.
- <sup>89</sup> SC 6/42; Chavannes, *Mh*, II, 158; Li, *First Emperor*, 275.
- <sup>90</sup> SC 6/44; Chavannes, *Mh*, II, 139; Li, (*First Emperor*, 270) has "This year officers were promoted one rank." SC 6/60; Chavannes, *Mh*, II, 184; Li (*First Emperor*, 283) says "Officers were promoted one rank."
- <sup>91</sup> SC 6/44; Chavannes, *Mh*, II, 163; Li, *First Emperor*, 276-277.
- <sup>92</sup> The following steles comment on this point: Mt. T'ai, Lang-ya, and K'uai-chi.
- <sup>93</sup> SC 6/57; Chavannes, *Mh*, II, 180, Li, *First Emperor*, 282.
- <sup>94</sup> That the scholars were buried alive seems untenable, in spite of a well established tradition to that effect (cf. Chavannes, *Mh*, II, 181 n. 2 and Bodde, *China's First Unifier*, 117 and n. 3). The major problem is the meaning of *k'eng* 阨 (sometimes 坑) which basically means a pit, a hollow, a valley, and this basic

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meaning has unquestionably contributed to the traditional interpretation of the passage. The word seems to be most often interpreted in the *Shih-chi* to indicate "to massacre" or "to slaughter." The examples I have found all refer to the alleged slaying of surrendered troops, on one occasion 400,000 (!) Chao soldiers who had surrendered to Po Ch'i (*SC* 6/58, in the commentary); on another, 200,000 surrendered Ch'in soldiers (*SC* 7/25-26; Burton Watson [*Records of the Historian, Chapters from the Shih-chi of Ssu-ma Ch'ien*, New York: Columbia University Press, 1969, p. 78] renders the verb "butchered"). Other examples refer to actions taken against surrendered troops without specifying number. "Buried alive" in such contexts is nonsensical. A more likely explanation is that troops and scholars were massacred and their bodies thrown into a pit. There is no need to make the mass execution, if that is what it was, any worse than it was.

<sup>95</sup> Anthony Hulsewé has reached essentially the same conclusion, based in a large part on his study of the Ch'in documents from Yun-meng. He refers to "a strong admixture of 'Confucianist' [I would prefer to say typical traditional Chinese] traits." See p. 234 in his "The Influence of the 'Legalist' Government of Qin on the Economy as Reflected in the Texts Discovered in Yunmeng County," pp. 211-235 in S.R. Schram, ed., *The Scope of State Power in China*. St. Martin's Press, 1985.

<sup>96</sup> There had been emperors (*ti*) in antiquity, but, as we have seen, the First Emperor proved that they failed to establish lasting regimes. There had been several attempts in the early third century to divide the states of China between, e.g., East and West Emperors, but the move was so unpopular that it was rescinded. See Bodde, *China's First Unifier*, 128-129.

<sup>97</sup> *SC* 6/32; *Mh*, II, 551-553.

<sup>98</sup> 98. *SC* 6/39-40; *Mh*, II, 150-151; Li, *First Emperor*, 274.

<sup>99</sup> Bodde, *China's First Unifier*, 77-78 contains the decisions but not the full document; for the latter, see *SC* 6/20-21; *Mh*, II, 123-124; Li, *First Emperor*, 267-268.

<sup>100</sup> Chavannes has "sa justice et sa puissance" (*Mh*, II, 187); Li: "justice and might" (*First Emperor*, 284).

<sup>101</sup> *SC* 6/62-63; *Mh*, II, 187; Li, *First Emperor*, 284.

<sup>102</sup> "Feudal lords" is used here as a convenient rendition of *chu-hou*. I do not intend to indicate that Chou dynasty institutions were analogous to West European feudalism, but this is not the place to argue the point.

<sup>103</sup> *SC* 6/58-59; *Mh*, II, 182; Li, *First Emperor*, 283.

<sup>104</sup> *SC* 6/49-52; *Mh*, II, 169-174; Li, *First Emperor*, 278-280; Bodde, *China's First Unifier*, 23-24.

<sup>105</sup> The policies that assured domestic peace were not pursued on the international scene. In 215 and 214 B.C., the Ch'in state committed itself to a policy of expansion on its southern, northwestern and northern frontiers. These campaigns, however, do not appear to have created widescale dissatisfaction.

<sup>106</sup> "Regional governors" in Chinese is *fang-po* 方伯, a term which has caused the commentators great consternation, for there was no such title in the Ch'in bureaucracy. Furthermore, it seems to be a reference to a preimperial institution. Poetic license is perhaps the best and only way to account for the term here.

<sup>107</sup> Chavannes (*Mh*, II, 147) renders this sentence "Il a enlevé l'erreur; il a fixé ce qu'il fallait faire."

<sup>108</sup> *SC* 6/37; *Mh*, II, 147; Li, *First Emperor*, 272. Li punctuates differently and has "all correctly, all according to plan." But 畫 probably should be taken as 劃.

<sup>109</sup> *SC* 6/43; *Mh*, II, 162; Li (*First Emperor*, 276) for "officials" has "subjects." For a comparable expression see also *SC* 6/62; *Mh*, II, 186; Li, *First Emperor*, 284.

<sup>110</sup> *SC* 6/33-34; *Mh*, II, 140-142; Li, *First Emperor*, 271.

<sup>111</sup> *SC* 6/36-37; *Mh*, II, 145-146; Li, *First Emperor*, 272.

<sup>112</sup> *SC* 6/64-65; *Mh*, II, 189; Li, *First Emperor*, 285.

<sup>113</sup> See n.87.

<sup>114</sup> Hung Shih-t'iao (*Ch'in Shih-huang*, Shanghai: Jen-min ch'u-pan-she, 1973) in his chapter 5 argues that

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this was the ruler's purpose.

<sup>115</sup> *SC* 6/30-31; *Mh*, II, 138; Li, *First Emperor*, 270. Other powerful families, not members of the old nobility, were also forced to move at the same time.