The Enlightened Judgments
Ch'ing-ming Chi

The Sung Dynasty Collection

Translated by
Brian E. Mc Knight
and
James T.C. Liu

Annotated and
Introduced by
Brian E. Mc Knight

STATE UNIVERSITY OF NEW YORK PRESS
Part 4

Households and Marriage

In all societies based on private property, children receive both a heritage and an inheritance, a legacy of culture and of material goods. Through this process the family, the central social institution, continues its own life. The greater part of the transmission of the cultural heritage occurs gradually in childhood and early adolescence; the transmission of physical goods happens more commonly at certain key moments in the family cycle. Children marry; couples divorce; parents die.

These key lifecycle events face the family as an institution with real immediate problems. The marrying off of children has as one aim, almost always, the recreation and continuation of the family. How can the existing families that join in the marriage help assure the success of the new couple? The forming of new couples carries with it, immediately and potentially, the transmitting of significant amounts of goods and property. And when couples divorce the property that has been an asset of their marriage must again be divided. The deaths of family elders, parents and grandparents, faces the group with an even more immediate set of interrelated crises, emotional, social, and economic.

The importance of these junctures in the transmitting of past experiences and physical goods is flagged for interested observers by the growth of elaborate formalized practices. These elaborate patterns of rites impress on all onlookers that these are vitaly important matters in the life of the society. Marriage is surrounded by a host of rituals, often expensive and elaborate. Through these acts the families involved display their own worth, as best they can, and through this act the worth of their children. These expected behaviors cushion the reality of a major change in the emotional configuration of the family and a
significant realignment of relationships to property. Death too is hedged about with rites. The death of elders marks the one event in family history that is even more critical than the marriage of children. Here too the event marks both the occasion of a major emotional realignment and a radical change in the relationship of family members to property. Only divorce is often relatively simple, as if society does not choose to highlight failure. Still, it is potentially of profound importance to the ongoing life of the families involved.

In real life these junctures are often neither neat nor final. Societies with private property have all devised means for the normal transmission of control over the property of their deceased members. But often the proper lines of transmission are unclear or at least are open to dispute. In the majority of cases transmission may be quite simple; in many others it occurs only after protracted and often bitter disputes among potential heirs. How are such breakdowns of proper order to be avoided or, if unavoidable, to be repaired?

And in real life the promise of marriage often is not fulfilled. Husband and wife cannot abide one another; couples are barren. The future of people to live up to expectations again faces the families involved with another pair of crisis points. What do you do when a marriage simply does not work? What do you do when a couple remains childless?

These questions have bedeviled all societies. Societies have responded in similar ways. If a couple is childless then a way must be found to circumvent nature, to do through social action what biology has failed to do. In one way or another, through one form or another, people often adopt those who will serve as their descendants. But, as the cases we are about to read show clearly, adoption is a loaded practice since it usually affects how property will be distributed. And, if a marriage does not work, some way must be found to minimize the social damage and, possibly, to create conditions that will permit later, different unions to be formed. Almost all societies practice divorce under some conditions. But again, since divorce affects property distribution, it is a regular source of contention. The Ch'ing-ming chi examples show some of the sorts of conflicts that can arise at this intersection between the emotional needs of two people and two families and the property system of the society.

These three practices, marriage, divorce, and the adoption of heirs, were fraught with potential problems because valued goods or potential access to valued goods always changed hands. Money matters.

The bonds of affection may make possible an easy negotiation of shares; such bonds in real life are often all too weak. Partners in a marriage may come to detest each other; brothers often care little or nothing about brothers; parents-in-law may loathe their children's spouses; and relatives beyond these closely related individuals are least likely of all to put some vision of a shared welfare above their own individual interests. This section of the Ch'ing-ming chi is full of cases of relatives suing close relatives, uncles suing nephews, nephews suing uncles, fathers (and mothers) suing sons.

In simpler societies such matters are most often left to the judgments of people of power acting according to widely understood traditional norms; when states assert their control over societies the state authorities face potential problems. Fostering disputes among the people lessen state control. How much will a state interfere in such "civil" matters? Ideology certainly plays a part in determining the answer to this question. How much does the ruling elite think it should control? More importantly perhaps, how much can the state control? Organizational, transportation, communication, and fiscal technologies place limits on state action.

In some civilizations, where there is a strong religious tradition separable from the state, religious functionaries may successfully assert their right to control such matters. The very active religious life of ancient China never was fully separated from the acts of the state. This Chinese religious pattern combined with a deep-seated vision of politics as fundamentally familial. This family metaphor, which undergirds Chinese political life, legitimated (at least in theory) the Catholic responsibility of the ruler for the welfare of the people. Thus in China the underlying ideological and religious conditions were compatible with the extension of state power into civil matters to the extent that this was possible under given technological conditions.

This assertion flies in the face of the received opinion, that Chinese traditional governments sought continually to avoid becoming involved in the kinds of disputes we call civil. No doubt this was in part true, for very practical reasons. The difficulties of sorting out right from wrong were always present. The issues raised by civil cases compounded the problem because deep-seated feelings were involved. However, as the materials in the Ch'ing-ming chi should make abundantly clear, the state in fact had issued a large number of rules governing the key civil acts with which we are concerned, marriage, divorce, adoption, and inheritance. We must also always bear in mind that the
rules that come down to us are a minimum. If we had not in recent years recovered the enlarged Ch'ing-ming chi there would be dozens of laws on civil matters of which we would have had no knowledge. How many hundreds more, now lost, may there have been?

Property Disputes—Part 1

WU MENG 吳盟 DISPUTING THE SALE OF LAND
BY WU HSI 吳錦

author: Fan Hsi-t'ang 范西堂

This case arose because the broker involved in a set of land sales was dissatisfied with his payment and filed a complaint with the court (in the magistrate's view so that he could use the threat of legal proceedings to get more money). The official sentenced all three men involved to one hundred blows of the heavy rod, though one of the them was given the opportunity to commute this to a money payment. It is not at all clear on what grounds the official would have justified his decision. One possibility is that the head of the household, who in general had the right to dispose of its property, ought not to have done so because of the existence of legitimate heirs to the estate. The other two parties, the broker and the buyer, were perhaps punished under the general rubric of having done what ought not to be done, though the specific statute of that name had a maximum penalty of eighty blows. However, although all three men were punished, the magistrate felt compelled to uphold all but one of the contracts of sale.

Wu Hsi succeeded to headship of the household after the death of Wu Ko 吳革. Within a year he alienated through conditional sale (tien-mai 取買) much of the landed property, leaving very little. When he met someone on the road he would put himself out to make a deal in order to get something without worrying about it at all. Wu Su 吳蘇 took advantage of this brief opportunity to make five contracts, in which...
law, the money involved should be confiscated by the authorities. This is not quite right. Loans charging excessive interest would be illegal. However, Chiang borrowed the money during the fourth month and conditionally sold the land during the next. Chiu charged no interest during the interval. This is different from the situation treated by the law as illegal. Furthermore, Chiu "Three-three" had been misled and did not understand what was involved. It would be hard to justify government confiscation of his money.

Since the occupant of the land has not changed, it should be restored to its owner. But Chiang Shen, having put false information into the contract and having cheated Chiu "Three-three" out of the money, should according to the law be sentenced to eighty blows of the heavy rod. However, on the basis of the Imperial Court amnesty the sentence will be waived. A directive is sent to the prefectural office for public order that shall have Chiang Shen escorted under guard to the district office. There under supervision he shall be made to return the amount of the cash as well as paper currency to Chiu "Three-three," exactly according to his confession. Chiu will then file a statement of receipt to be reported back to this office.

REDEMPTION OF CONDITIONALLY SOLD PROPERTY IS NOT ALLOWED WITHOUT DEEDS FOR PROOF

author: [Official from] P'u-yang [District] 布陽

The lengthy case document deals with the problems that arose because of the continuing enmity between two brothers. Unfortunately, these men were sons of a powerful official family. They had been feuding for years, sometimes using their clients or followers as agents in their struggle. The local officials, though aware of the problem, were completely unable to force a resolution. (This should serve as an important reminder that the actual power of the imperial government to work its will was very circumscribed when it had to deal with the powerful.) The specific conflict involved in this opinion concerned the true ownership of a house and garden that, not coincidentally, housed the larger family's common grain storehouse. One party to the dispute is a parent of the younger of the two brothers. This man claimed that the house and garden had been conditionally sold to him. The other party to the dispute, the elder brother, had a variety of documents suggesting that this was not so. The details of the dispute are confusing. What is not confusing is the helplessness of local officials in the face of the resistance of the powerful. In the end all the official can do is punish some of the hangers-on in the hope that this will discourage other outsiders from becoming involved in the ongoing struggle.

The Tseng brothers are the sons of a former honorable scholar as well as the sons of a famous official. As a model for other kinship groups, they ought to be known for their filial piety and brotherhood. Only then would they be following their ancestral teachings. Yet it is not so. Their disharmony started as a dispute about which of them should receive a court appointment through patronage based on their father's rank. The younger brother received an office before the elder brother did. This was done at the command of the father. How could the elder brother properly complain? On the other hand, the younger brother, having become an official, should have held himself to high ideals and always deferred to the elder brother so as to compensate for this situation. If this had been done, the resentment would have vanished. Yet again it was not so. Not only has the younger brother been lacking in deference, he has also attempted to seize his elder brother's property. Under these circumstances, how could the elder brother be free of resentment? From this point on they became embroiled in mutual disputes. Each formed his own clique. Either the elder brother helped someone to embarrass his younger brother or the younger brother induced someone to cause harm to his elder brother. They used unbecoming means against each other, even conspiring to entrap one another. Close blood relations though they are, they hate each other like enemies. Born of the same parents, they attack one another like wolves and tigers. Not a single month has gone by without their initiating plaints.

The officials all were aware of this. As is clear from the judgment of the former district magistrate, Mr. Chao, who had already sized up the general situation. But in the end he had no way of dealing with it, for the power of the magistrate is not great, whereas the Tseng brothers carry with them the powerful influence of officials. If reason is used to exhort them, they would not be compliant. On the other hand the magistrate would not dare to enforce the law against them.
This is why the lawsuits have been going on unabated. They are like a wood fire, which will never go out unless all the wood is burned.

Soon after my arrival at this post, the magistrate sent over his judgment on a case involving a dispute between Hu Ying-mao 胡映茂 and Tseng Yüeh 曾岳 with regard to the redemption of a garden and the right to pick mulberry tree leaves. By studying the files, scrutinizing specific items, and questioning the details, I got to know the causes that led to the lawsuits of the Tseng brothers. Reference has just been made to the brothers secretly forming cliques and the way each got people to embarrass and harm the other. Hu Ying-mao is precisely one of those who got so involved.

This may be illustrated by Hu Ying-mao’s attempts to redeem his conditionally sold garden. According to the law “A person who conditionally sells land or house draws up a deed, one copy for the creditor and one copy for the owner.” As everyone knows, this is done everywhere. Hu Ying-mao and his father live in the district town. How could they not know this? Yet they claim that they conditionally sold their garden and house at Hsiao Encampment to the honorable Mr. Tseng, a former prefect, without a single word of documentation. Even people who take some clothing to a pawnshop in order to borrow a hundred odd coins will have to produce the pawn ticket to redeem the article. If the pawn ticket should be lost then there will be no way to redeem the clothing. How could it be that land and house conditional sales could be redeemed without proof?

Previously, the district office has allowed Hu to deposit exchange guarantee money (chiao-ch’ien 交錢) at the district treasury, for which he received a certificate to manage the property. On what documentary proof did this action of the district office rely? We do not know. But, in the judgment of the fiscal commissioner, the consignment of money and the grant of the certificate were based on Hu’s one-sided argument. All the arguments on both sides from the very beginning should be written up and reported and further orders awaited.

To pursue this line of enquiry, there has evidently been clerical fraud. It has been asserted that originally the younger Tseng brother, a district sheriff, loaned five strings of coins. However, it is not known what documentary proof Sheriff Tseng holds to prove that it was a conditional sale for which he loaned the money.

When people hold property, they always care for it. Unless they have no choice they would not let it be redeemed. The father of Tseng the sheriff acquired land, garden, and house. Why should the sheriff help to make sure that Hu Ying-mao would get it? What could be the motivation?

Tseng Yüeh, the elder brother, has asserted that the garden and the house at Hsiao Encampment were bought by his father. Although there are no deeds, there is a receipt for the money paid. Magistrate Chiao has previously considered it acceptable as a supplementary document. A search has been made on the background of this property as previously held by T’ing Tzu-chao 丁子超. According to both the record at the district and at the appropriate bureau, it was sold to Mr. Tseng, the prefect. This being so, Tseng Yüeh has three supplementary items of proof that the garden and house at Hsiao Encampment was sold. How can the government disregard these three proofs and endorse the claim that is was a conditional sale, a claim that lacks a single word of documentation?

Those who side with Hu Ying-mao merely argue that Tseng Yüeh does not have a formal deed. Yet Tseng Yüeh has produced a response from his younger brother; the sheriff, saying that when the deed is found it will be submitted. Mr. Ch’en, the former recorder, has correctly surmised that the deed is in the hands of the younger brother. How then could Tseng Yüeh get hold of a formal deed?

Investigation also finds that the disputed house and garden are not in a very productive area. Why does Hu Ying-mao insist on having it? It is because the younger Mr. Tseng, the sheriff, wants Hu Ying-mao to have it. The elder Tseng expelled the younger Tseng and the younger Tseng had to set up a separate household elsewhere, without getting money and rice from the common supply. The house in the garden at Hsiao Encampment is precisely where the common family grain supply is stored. This is why the younger Tseng, feeling resentful, insists on seizing (the property) and turning it over to Hu Ying-mao, resulting in endless lawsuits.

Now the case comes before the present office. Because it involves on both sides well-known officials and gentlemen, no effort has been spared in repeated attempts to persuade the parties to accept a harmonious settlement, in order to preserve grace and righteousness. However, it has been most difficult to discuss this with the parties involved. Therefore, although my rank is humble and my post low, I can no longer be afraid (of dealing with the case). My only option is to hold fast to a sense of public spiritedness and to speak truth to the fullest. Then, even if this should cause enmity and resentment, I would not feel disturbed.
All the arguments of Hu Ying-mao concerning Tseng Yeh’s having redeemed the garden and house at Hsiao Encampment, in the absence of the deed and other documents, make it unacceptable that redemption be permitted (at this time). The certificate the district office gave to him without itself having seen any proof (of his assertion) is ordered to be returned to the appropriate bureau of the district office where it is to be destroyed. The district office is to be informed that the escrow deposit Hu Ying-mao has made to the district treasury should be returned to him. He may wait for the settlement of the property division. If the property goes to the younger Tseng, the sheriff, it would not be too late at that point for Hu Ying-mao to redeem the property from him. As to the dispute about the mulberry tree leaves, according to the testimony, it was Hu Ying-mao and his father who led P’ei Ping-tau and others to do the picking. Since the grove will have been restored to the elder son, an heir to Prefect Tseng, what is produced on it should also belong to that family. After this case, P’ei Ping-tau shall be ordered to make restitution to the Tseng family.

Furthermore, I am merely a small official on the prefectural staff. Even if I discuss that exhaustively and without reservations, I will not be able to solve the problem of the lawsuits in which the Tseng brothers are mired. Nor would this eliminate their disputes. Thus, in my opinion, the government cannot eliminate the disputes in the Tseng family. However, can it continue to tolerate those partisans who have helped to intensify the disputes, people such as Hu Ying-mao, without subjecting them to discipline? A report is to be sent to the district offices, asking that a placard be publicly posted. It should say that henceforth, in any plaint or lawsuit that involves the Tseng brothers, in which either the younger brother gets someone to accuse his elder brother or the elder brother gets someone to lodge a plaint against the younger brother, the origins of the dispute will be thoroughly investigated. Those who have conspired to support it, or who have instigated it, will be severely punished. In this way the lawsuits of the Tseng family may diminish. All the documents on file are to be handed back to the parties involved in the view of the court, except the district certificate given to Hu which is to be destroyed. Hsi-P’ei tzu ("Eight-five") is to be detained for further questioning on the picking of mulberry tree leaves. All the rest are dismissed.

Concerning the dispute between Kung Fu and Yu Pai-hsi about the three parcels of land numbered 287, 288, and 289, in the number one [large] guard of the forty-eighth superior guard, both sides stood by their positions, so that the authorities initially were not able to determine who was right and who was wrong. When we take the harvest plot registers of this office and analyze them together with the land documents of the two families, we can see that plots numbers 287 and 288 are held in tenancy by Kung Fu, and plot 289 is held in tenancy by Yu Pai-hsi. Plot 287 is calculated to contain five mou forty-five pu. Two eighty-eight contains four mou one chiao fifty-three pu. There is absolutely no discrepancy between this assessment and the official register. As for plot 289, according to what is recorded on the land document held by Yu Pai-hsi, it contains ten mou fifty-five pu, but according to the official register it only contains five mou fifteen pu. When this situation is thoroughly examined in terms of the deed, it would appear that within the land document itself additional mou
Judging by the topography, it is not simply that the high and low levels are uneven but that alongside the Pao house there is a ditch from the old days that runs straight into the public thoroughfare. Apparently this ditch forming a straight line marks a boundary of the Pao family property. Now Shen wants his new fence to go around a curve so as to enclose half of the ditch inside the fence. This a second point upon which he is in the wrong.

Shen Chin-ehr 九十 ["Nine-two"] and other neighbors have testified that the old fence was fixed on the peat of the Shen house and the outlet of the ditch was located outside that fence. All of them have known for a long time that the ditch belongs to the Pao family and the fence was pegged to the Shen house. Yet Shen now of a sudden wishes to hang the fence so that it will cross the ditch in order to encroach in a roundabout way on what is beyond his property. Even if Shen could cheat Fu Liang, he cannot possibly hoodwink the whole neighborhood. This is the third point on which he is in the wrong.

Because Shen’s assertions are so void of good reason, as reflected in the relevant land documents, as judged by the topography, and as indicated by the neighbors’ testimonies, for what purpose is he attempting this encroachment? The explanation lies in the background. Fu Liang’s father when he was alive once loaned this strip of land to Shen. At the time the sentiments between the two families were so close that they did not care to look at the boundary to determine which part belonged to whom. But Shen, after borrowing the strip of land, did not return it. Instead he regarded it as his own and even wanted to build a house on it.

When Fu Liang in a friendly way wanted the land occupied by Shen to be restored to him, Shen responded to him vehemently, even using foul language, and resisted his request strenuously. Because the case has come to court, it can only be settled by reason and principle.

Our decision is that Shen Pui-ehr ought under supervision to dismantle the new fence and surrender that strip of land in accordance with the true boundary as specified in land documents. It might be hoped that this would end the dispute. However, the disputed strip of land is only a few feet wide. It would be far better if those involved could cherish friendship and harmony between neighbors. If Shen wishes to rent that strip of land then Fu Liang should, in the interest of neighborly cordiality, agree to this. If so, they should put it into a contract in explicit language and clearly communicate with each other.

Establishing Heirs

Both of them are to file a statement, promising to have no more plaints. When this has been done, it should be reported to this court. If on the contrary either of them does not follow principle, he is to be punished according to the regulations.

Establishing Heirs

WHEN AN HEIR ORIGINALLY OF ANOTHER SURNAME HAS BEEN ADOPTED DURING ONE’S LIFETIME
IT WILL BE DIFFICULT TO REMOVE HIM THROUGH A CHALLENGE

author: Wu Shu-ch'ai

This case had a little bit of everything. A nephew, adopted, from a family of a different surname, brings suit against his uncle, accusing him, among other things, of adultery. The uncle, who is the younger brother of the (deceased) father of the young adopted man, brings suit to displace the adoptee as heir to his late elder brother, with some of still another surname. Wu Shu-chai sees in all this the machinations of wicked-minded maids and collateral relatives.

The problem seems to have begun when the younger brother refused to let one of his two sons be adopted into the family of his niece’s elder brother. After the death of the elder brother, the selection of an heir was, by law, in the hands of his widow. In this case she, apparently after consultation with her own sister, selected a young man from the family of her mother-in-law. This was contrary to the established law that adoptees over the age of three years (the young man seems to have been seven) must come from the same paternal group. The official dismissed the uncle’s suit for four reasons. First, no one from the paternal group objected at the time of the adoption or during the ensuing eight years. Second, the young man not only lived as the adopted son of the family, he also on three occasions performed mourning rituals for members of his adopted family. Third, the uncle only sued after the deaths of the two principal women involved, thus denying the women the possibility of defending their actions. Fourth, to
displace the adopted heir would leave the deceased elder brother without an heir.

It is the law that "All those who are without sons or grandchildren are permitted to adopt someone of the same patrilineal group who is of appropriate age and generation."

Heang Lin and Heang Nan are elder and younger brother. The elder brother, Heang Lin, had no son. Heang Nan, even though he had two sons, was unwilling to have either of them established as the heir of Heang Lin.

When the elder brother died, Heang Nan accepted an order from his mother, nee Wu, and his mother's sister, nee Chou, that a nephew from the family of the grandmother, nee Ta'ai, be established as the heir of Heang Lin. This is the person who today goes by the name of Heang Chien.

To adopt a son of the Ta'ai family as the heir of the Heang's is not in accord with the intent of the law. However, at the time this was the determined wish of the grandmother nee Wu, and the mother nee Chou. Heang Nan himself carried out the order. Because it was these persons who broke the law in installing him as the heir, no blame attaches to Heang Chien.

Had someone from the patrilineal descent group who understood propriety, considering the choice to be against the law, strongly disputed the establishing of the nephew as the heir, this would have been permissible. However, to remove the heir today, eight years after he has been established, is not permissible. If the action had been brought prior to the deaths of the grandmother, nee Wu and the mother, nee Chou, this would have been permissible. To expel the heir now, after the deaths of the ladies Wu and Chou, is not permissible. Moreover, during those eight years not only did his grandmother and mother raise and love him without any word of criticism, but his paternal uncle Heang Nan also never raised a plaint pointing out Heang Chien's faults. Furthermore, Chien has been a son in the Heang family for eight years and on three occasions he performed the duty of wearing mourning clothing, for his father, for his grandmother, and then for his mother.

Yet now that the grandmother and mother are gone, Nan, without cause, wants to establish a certain Wu Te-sun as a younger brother to Heang Chien. What sort of an intention does this show? The lineage, taking advantage of the rift opened up by Heang Nan, has joined in the plaint to expel Heang Chien, ostensibly basing themselves on the rule that no one of a different surname should be adopted as heir. What sort of a viewpoint is this really?

Furthermore Nan alleges that Chien is young and weak. His grandmother and mother, in ordering him established as heir at seven years of age did not consider him to be young and weak. And now he is fourteen! Can we allow Nan to reverse himself and now consider Chien young and weak? Nan also maintains that Chien has faults and has behaved badly. Presumably a boy like Chien, just fourteen years old, who has been called young and weak, could not be free from the faults youngsters usually have. As his paternal uncle, Heang Nan at precisely such times should have instructed him and disciplined him. How could the uncle suddenly go so far as to expel him without cause? The heir is not yet an adult. His offenses are not yet manifest, nor is there actual trace of his ever having spoiled family wealth or dissipated family property. To expel suddenly without any cause this heir of eight years, who was installed by his grandmother and mother while they were still alive, is on the basis of reason absolutely impermissible!

The offices of the judicial commissioner and the fiscal commissioner have already one after the other rendered decisions. Both disapproved Nan's suit. However, Nan, without examining himself, dares directly to name the officials of the prefecture. Without restraint he brings forward slanderous charges, persisting in his private feelings, while disregarding the public-spirited law.

To expel this boy Heang Chien and return him to his natal family [the Chou's] would not be difficult. However, if Chien is expelled then Heang Lin will have no heir. Could the grandmother and mother then rest without regret in their graves? The paternal uncle, Heang Nan, was not only unable to bring up his nephew properly. He really did not understand filiality and brotherliness as they apply within the family.

The nature of man and the principles of Heaven are immutable. In my opinion, Heang Nan, since he is a remote clan member related to an empress, should be expected to conform to reason and the principles of the law and certainly ought not to neglect them.

In reality he has been provoked to act in this way. Chou Yao and Wang Yan-hsi and Heang Chien's mother's maidervant. After the deaths of the grandmother nee Wu
and the mother née Chou, Chien, being still young and not yet of full understanding, put his trust in the maternal uncle and the maidservant. They certainly were incapable of teaching him the proper ritual behavior for acting respectfully toward his paternal uncle (Hsing Nan). How could Chien have been capable of following and adjusting to what the paternal uncle wished. From this time on the dispute arose.

Furthermore, [Hsing] Chien, because [his uncle] Hsing Nan intervened to establish Wu as his younger brother, has on several occasions also brought plaints to the officials. Chien has alleged that his paternal uncle has sought to injure him and usurp his family property (through this imposition of a younger brother). Also [Chien] has claimed that his paternal uncle has improperly altered things and concealed facts. These are charges that Chien ought not to have brought.

However, [Hsing] Chien himself really could not not have been the one who initiated them. It must have been the maid, Wang Yen-hsi, contentiously nagging from the inside and Chou Yao inciting from the outside that eventually led to these sorts of illegal plaints that offended the senior (uncle).

Because of this Hsing Nan was angry and so accused Chou Yao and Wang Yen-hsi of having had an adulterous relationship, of stealing, and of secretly mortgaging [property]. What has so angered Hsing Nan is that it is Hsing family property and yet it has not been under the control of the elders of the Hsing family but rather under that of an outsider.

Now, there have been several investigative interrogations. According to the verbal replies and the personal written deposition of Hsing Nan, he did not originally feel angry toward his nephew. Rather, he became angry because Chien was not grateful for Nan’s role in having him established (as heir), and because [Hsing Chien] listened to and believed [his mother’s brother], Chou Yao, and accepted the instruction of [the maid] Wang Yen-hsi, and thus brought to the district these false plaints about Nan. This being the case, Chien also must bear some of the blame.

Now, this court exhorts Hsing Nan to rid himself completely of all his long-harborized animosity. He ought to care for his nephew like a son. We also admonish Hsing Chien to correct all his former faults. He should respect his uncle like a father. The family property must be examined and its value assessed. Chou Yao and Wang Yen-hsi must be separately dealt with so that further contention at some later time will be precluded and the righteousness of the Heavenly Bonds will be secured.

After the investigation Chou Yao is to be beaten eighty blows with the heavy rod and to be made to submit a statement of obligation stating that he will never again interfere in the affairs of the Hsing family. We also wish to enforce our order that in a few days negotiations be undertaken for the marriage arrangement of the maid, Wang Yen-hsi, who is to be wedded to someone from another place.

As to the family property in question we order by document that Chia-hsing Superior Prefects (Chia-hsing in Che-chiang) assign an honest and forceful official to gather together the lineage elders and conduct an impartial investigation and assessment. He is to divide the property into two portions and set up the records for both to be sealed and signed. For the present the management of Hsing Chien’s share of this property will be in the hands of Hsing Nan. Later on, when Chien comes of age it shall be turned over to him. It will not be permissible in the future to break up these properties through conditional sale. It is to be hoped that the uncle and nephew will restore the natural relationship between them, so that no one living or dead will have any regrets. This really would be no small gain for moral influence and social education.

AN ELDER AND A YOUNGER BROTHER, ONE POOR AND ONE RICH, HAVING THEIR CASE DECIDED BY THE DRAWING OF LOTS.82

author: Wu Shih-chai
WHEN AN HEIR HAS BEEN CLEARLY ESTABLISHED THEN THE FAMILY DOES NOT DIE OUT\textsuperscript{10,11}

author: Draft decision (ni 売) by the judicial inspector

This case involves an attempt by daughters to dispossess the son of their adopted brother as an heir. In the opinion of the judicial inspector, the evidence is clear (see Wu family chart). There is abundant documentation to demonstrate that the deceased son had been properly adopted by the father. The inspector cites the relevant laws governing these matters. He also raises the issue of the adoptee having performed appropriate mourning rituals and the fact that the issue was not raised while this heir was alive but only after his death when the property might pass to his son. In the inspector's view, the case of the plaintiff's wife was designated by one of the married-in sons-in-law and hinged on the understanding that if the patriline were to be declared to have died out, the family property would be divided among the daughters. There is, however, another way to see the case, which was originally brought by the youngest, as yet unmarried, daughter. This daughter knows that the second to the youngest daughter had been sold into a minor marriage (as a so-called foster daughter). She hoped that she might avoid being sold in her turn and so entered a plaint asking that the family property be divided. The case having been brought, the others join in a scheme to dispossess the son of the adopted male heir. The inspector raises a variety of evidential and legal problems with their plaint and in the end dismisses it.

When the documents concerning lawsuits about households and marriage are numerous and yet are not in agreement, and the official charged with rendering straightforwardly worded decisions is not able to act in accord with the law while taking into consideration the humane moral feelings involved so as to settle the controversy fairly, then lawsuits motivated by insatiable covetousness will continue to flare up.\textsuperscript{10,11} This will not stop until the families involved are destroyed.

This particular case now comes before this office. The relevant laws are readily available. It merely remains to clarify right and wrong with a view to making the decision conform to humane moral feelings.

Wu Chi'en 吳氏 has four daughters and one son. It is so recorded by the lineage branch. The eldest child is a daughter, called the Fourth Maiden of the Twentieth Generation, who is married to Shih Kao 許高. The second daughter, named the Fifth Maiden of the Twentieth Generation, is the wife of Hu Yin 許殷. The third child was a son who was called the sixth of that generation, and had the familial name of Wu Yu-lung 吳有龍. He was established heir although originally he had a different surname.\textsuperscript{12} Next is the daughter called the Seventh Maiden of the Twentieth Generation, who according to the report has already married into the Hsi clan. The last and youngest daughter is called the Eighth Maiden of the Twentieth Generation. She submitted the initial statements (about this case) and is unmarried.

If the birth order of the siblings can be made clear then this can help in settling this lawsuit over property. Shih Kao and Hu Yin are the married-in sons-in-law. Customary propriety regards such men as semi-sons. If Wu Chi'en had considered both of the sons-in-law trustworthy, then he would have had no reason, while he was still alive, to install a boy of a different surname (as heir of the household). And yet he did so establish (the boy born with the surname) Li-ch'ü, in order to continue the descent line.\textsuperscript{12} In addition, the old man had his heir marry a girl from the Li family. There was substance to his having this girl chosen as the wife. As time goes on, the grandchildren as branches will stand up well.

For a number of years the members of the family got along peacefully without arguments, each in his proper role as father or son, elder or junior. Suddenly a lawsuit is initiated. What is the cause of this? Is it not because of the assertion that Yu-lung should not have been considered the son of Wu Chi'en? In this case, what of the three-year (chun-te'ei 楚 tec) mourning rites [which a son should perform for a father] performed after the death of the Wu Chi'en? Were they performed by the two married sons-in-law? Or were they performed by Yu-lung? In truth, was it not Yu-lung who performed them? Again, is it not because of the assertion that Yu-lung should not have been considered the brother of the fourth maiden and her younger sisters? In this case, when Yu-lung died, were not the three year mourning rites (which should be performed for a brother) performed by these sisters? Or were they performed by someone else?\textsuperscript{12,13}

Moreover, since Yu-lung waited upon his father in life and buried him when he died, performing all the duties of a son, it is absolutely
fully confirmed? Instead, why did she file her complaint about Yu-lung only after Yu-lung’s death?

According to law, “In cases involving [deceased] adoptive sons, when the adoptive grandparents and parents of an adopted son have died, or, even if the adopted son himself is still alive, the parents and grandparents who raised the child during their lifetimes are all dead, the authorities are not allowed to take up such cases, whether the allegations are raised by other persons or by the adoptive sons themselves.”

Also, according to law, “All infants under three years old who are of different surnames may be adopted. Because they are following their [new] family, the adopting parents are allowed to petition the officials to append their names to the family register. Legally they have the same status as natal sons and grandsons. This same legal provision applies even if the names have not been so appended, if an official investigation verifies the facts.”

Yu-lung, although called a boy of a different surname, changed his surname at the time when he was first established as a heir. After the death of the father, on the basis of Wu Ch’en’s statement, an official certificate was given to confirm the correct status of Yu-lung as heir. Since the situation is like this, Yu-lung cannot be referred to as a foster son.

Hu Yin also claims that the property of the Wu family has benefited from the labors of the two married in sones-in-law who have managed and increased it using the wealth that came from their wives’ family. Therefore he wants to have it divided equally among the four daughters. However, it cannot be so under the law. According to the law, “All married in sones-in-law who in the process of managing the property of their wives have increased its value are to be given three tenths of the total [as their share], if the family dies out.” However, in the present case, Wu Ch’en has left male a descendant. The family cannot be treated like one which has died out. How can we make a division according to the rules for a family that has died out?

A step by step investigation of the evidence presented in these two depositions reveals that the evidence consists of statements by the deceased and the district certificate. As to the so-called statement of the deceased, was this a verbal statement? or is it on paper? If it is on paper then it must be submitted to the government office so that the matter may be straightened out. If it was merely a verbal statement, then we fear that it will be unsystematic and thus inadequate to serve as evidence. How could it be sufficient to stop the arguments of various
people? As to the district certificate, there are two copies issued by the present office. The one held by the woman Tu lists the infant as one year old, but the one held by Wu Lin 胡林 is rather different, listing the child as seven years old. If Wu-lung really had been seven years old, by law he ought not to have been established as the heir and the district offices would have had no reason to provide a document indicating that he was one year old. If, on the other hand, he indeed was only one year old and so could according to law be established as heir then Wu Lin ought not to have changed the one into seven and an infant into a boy. The rights and wrongs involved can be seen clearly.

The steps that led to this lawsuit must have begun because Wu Teng 吳騰 and his mother could not create harmony among the senior and junior members of the family. Also, the failure in a proper and timely fashion to give in marriage the Eighth Maiden of the Twentieth Generation created anger that was difficult to suppress. Such one-sidedness is hardly helpful. This is what caused the eighth maiden to lodge a complaint asking that the family property be sold.

The district magistrate, Mr. Chia, who had a deep understanding of the situation, thereupon issued a decision calling for the equitable division of the property and the marrying off of the maiden. Yet the Fourth Maiden and her sisters, caring little about propriety among siblings, have attacked this decision. They have really given no thought to the fact that there is no clear provision in the rules concerning the inheritance of portions by women who are already married, whereas for those not yet married there is already a settled law under which they all receive equal shares of the property. As to the various shares in property division, those who have not yet taken a wife are given a "betrothal fund" (p'ien-tzu 擬資). Paternal aunts and those sisters who have been married and then return to the original household are given "marriage endowments" (chieh-tzu 經資). Those who are not yet married should separately be given property, which is not to exceed in value that given as marriage endowments.

Also, according to law, "When a family line comes to an end, its property is wholly given to the girls who are still at home, with those who have returned to the home being given half shares."

The Fourth Maiden of the Twentieth Generation and the others have not thought about the difficulties the father faced in establishing a patrimony and overcoming problems and dangers so as to continue the line of the Wu family. Suddenly, they were misled by Hu Yin. They want to reverse the settlement, so that the property left to the heir chosen by the father will be divided up among themselves. Should offspring behave like this?

Now, as to the matter of Wu Yu-lung having been established as heir by command of his father, this is proved by the evidence of the district certificate. He is entitled to his share of the inheritance in accordance with the rules. The Eighth Maiden of the Twentieth Generation is already of marriageable age. According to law, "Males at age fifteen and girls at age thirteen are allowed to marry." She should be given a marriage endowment in accordance with the rules. On the other hand, although she should be given a marriage endowment, if she lives long in the Wu family, it will surely slip from her control. This would be contrary to the granary commissioner's intention of arranging for the care of an orphan.

It is suggested that Wu Teng and his mother be made responsible for arranging her marriage. They should, without delay, and with strict observance of the propriety of aunt and nephew, seek for her a spouse so that there will then be no more plaintiffs.

Hu Yin and others should not covetously eye profit to the neglect of what is proper, nor should they intervene [in Wu family matters] in contravention of law. Certainly they should not manipulate a five-inch writing brush to disturb the office with evil lawsuits. As to the Seventh Maiden of the Twentieth Generation, some say she is already married to someone in the Hsü family, while others say that she has been sold as foster daughter (tso-na 良養女). Since the beginning of these complaints, nothing has dealt, in a fundamental way, with this question, nor is there a marriage agreement that could serve as evidence. Relevant documentation should be solicited from T'ung-ch'eng 匯城 District (present-day T'ung-ch'eng in Hu-nan). Separate action on it can be taken later.

In the files of this case, officials have cited draft decisions concerning the divisions of the property of a family that has died out and the dividing of property among females. This official finds them difficult to investigate and evaluate. It is proposed that they be submitted to the office of the stabilization fund supervisor for his reference. This is my humble opinion. I await the decision of my superior.
DUAL INSTALLING OF HEIRS, ONE BEING A SON CHosen BY THE ORDER OF THE MOTHER, AND THE OTHER BY THE PATRILINEAL DESCENT GROUP

author: Draft by the Tung-ch'eng District [present-day Tung-ch'eng in Hu-nan] magistrate

Establishing Heirs

As we have learned, Heaven and earth created the proper roles and the sages used these as models in organizing ritual propriety and in establishing the law. Thus it is that a woman follows her husband much as a minister serves his ruler. As the proverb says, “A virtuous woman will not follow two husbands, as a loyal minister will not serve two rulers.” Indeed, this is a far-reaching righteous standard of Heaven and earth and a great principle of chastity among the people. Thus, Kung Chiang made her pledge to her husband Po (never to remarry) and Lady Li defended her chastity by cutting off her own arm. These acts make illustrious the custom of chastity in our country and are made renowned in the histories. How can one merely say that these were individual acts of chastity and leave it at that? How ardent was Mistress Mao. She almost rises to the heights [displayed by Kung Chiang and Lady Li].

Huang T'ing-chi 黃廷吉 was one of four brothers. The two older brothers were Huang T'ing-chou 黃廷舟 and next in age Huang T'ing-hsin 黃廷軒. He has one younger brother, Huang T'ing-shou 黃廷壽. Huang T'ing-chi married a woman of the Mao clan. In the fifth month of the first year of Yuan-p'ing (May 30 – June 27, 1234) he died young, leaving no children. His widow, née Mao, was only twenty-three years old. Moreover, she had no son who could have supported her for the rest of her life. She only had the two girls, neither of whom lived to adulthood. Yet she spiritedly declared that she would not remarry. This would truly be difficult for an ordinary person. To be of mature
T'ing-chi during his lifetime never got along with T'ing-chen. Severing all relations, the brothers had nothing to do with each other. When T'ing-chi died, T'ing-chen and his sons just put their hands in their sleeves like spectators and looked on. Not one of them came to offer condolences or comfort the new widow. Besides these three sons did not behave properly. As a result, in the eleventh month of that year, the woman Mao asked the Liao family to which her cousin belonged if they would allow their second son, who was originally named Liao Fa-lang, to be installed as the heir to her husband T'ing-chi and to have his name changed to Huang Chen. [Note in the original: This conforms to the rule concerning relatives of the three-months (san-ma 孝期) mourning degree or closer, but of a different surname. If a child of three years or less is adopted then the child takes the surname of the adopting family.]

However, upon examination we find that installing Huang Chen as heir did not enjoy the full public consensus of the paternal descent group. Now it is claimed that the father had adopted him during his lifetime. This is nothing more than an attempt to conceal the fact that originally he had a different surname. First, there is no document certifying his transfer from one family and his addition to another family. Second, there are no elders of the paternal descent group to bear witness. Using only the accounting book for erecting the grave stele set up after the death of T'ing-chi and the plaints submitted by Mao Ching-shan 毛慶山 and Huang Chung-yuan 黃仲沅, the district has certified the heir. How could such evidence suffice to convince people?

I have heard an apt saying of the men of antiquity that “the spirits of the dead do not enjoy the sacrifices of those who are not of their kindred and that people only sacrifice to those who were of the same ancestry as themselves.” Thus, when the Viscount Tseng took Duke Chu as his heir, the Spring and Autumn Annals records that “the men of Chu extinguished the principality of Tseng.” It is not the men of Chu who in truth extinguished Tseng. Rather, the men of Tseng, when they in an open and ostensible way adopted someone outside the proper blood relationship to be the heir and pretended that this was a legitimate succession, in a hidden manner extinguished themselves.

This being the case, might it not be said that the installing of Huang Chen meant the extinguishing of the Huang family by a member of the Mao family? When the Huang ancestors worked hard to accumulate property and then someone of different surname came to enjoy years and preserve one's chastity is praiseworthy. How much more is this so when a young widow does so? Those who have sons and preserve their chastity are worthy of our respect. How much more so is a woman who preserves her chastity without a son! There might be some who would say that she coveted the Huang family property, yet it paid only seven thousand coins in taxes, so the Huangs at the beginning were not wealthy. Were there not many other families in the empire who had more?

Initially she installed Huang Chen 黃蕃 as heir because she had no other option. At that time, T'ing-hein, although he was married, as yet had no heir. T'ing-shou, who was mentally disturbed, remained unmarried (at the time of this adoption, though he later married and had sons—in). Although the eldest brother, T'ing-chi, had three sons; unfortunately they were about the same age as T'ing-chi. Moreover,
the possession of it, how could Huang T'ing-ch'en refrain from bringing a lawsuit?

However, when a husband is dead and the wife is alive, the wife is to be followed in family matters. There is a clear stipulation on this point in the law. Huang Chen has been installed as the heir for eighteen years. Mother and son have been amicable, with no grudge between them. In the managing of the household, in discharging their corvee duties, and in additional acquisitions of their landholdings, the son has not shown one iota of misbehavior. The elder uncle, T’ing-hsin, and the younger uncle, T’ing-shou, invited tutors year after year to teach and enlighten him. It was also they who decided on his engagement and marriage. From the beginning this family has had no disagreements.

Recently, because T’ing-hsin and T’ing-shou died one after the other, the woman Mao and Huang Chen had no one on whom they could rely. Thereupon, T’ing-ch’en’s son, Huang Han-lung, began to scheme to get their property. He conceived with his father, T’ing-ch'en, to lodge endless lawsuits. His intention was simply to displace Huang Chen and become heir in his place. Therefore he has taken his previous plaints from prefecture to district and from the district to the prefecture.198 Huang T’ing-ch’en never himself appeared in person, so in each case it was his son Huang Han-lung who did it all.

Both uncles, T’ing-hsin and T’ing-shou, had sons of their own [who might have been potential candidates to be named as heir—nd]. Why was it that during their lifetimes there was not a single plaint? And then, soon after these two men died, the lawsuits began. This also clearly reveals Huang Han-lung’s hidden covetousness toward the family property. Because the honorable commissioner was thorough and brought to light the hidden motivations, he did not fall in with Han-lung’s scheming trap.

He ordered that the woman Mao and Huang Chen be brought to the district and in the presence of the eight nephews who are the sons of Huang T’ing-hsin and Huang T’ing-shou, the woman Mao herself would in court select one of them to be the heir.

Besides this order, the commissioner had further instructed that the property currently belonging to the woman Mao be divided into two equal parts with clear boundaries for distribution. The documents concerning the divided parts were to be officially certified with seals and given to Huang Chen and the newly established son for safekeeping, with each receiving a copy. As before, the woman Mao was to have the management of the whole property.

I, as district magistrate, honored the instructions of the commissioner, brought in the woman Mao, Huang Chen, and summoned the eight sons and nephews belonging to the two branches of Huang T’ing-shou [and T’ing-chi]. This district then affirmed the selection by the woman Mao of the second son of Huang T’ing-hsin, named Yu-lung, as another heir of hers along with Huang Chen. We required her to submit to this office a sworn petition to this effect.

As to the division of the property, this office has searched for and located the deed received by the woman Mao’s husband, Huang T’ing-chi, when he inherited the land, as well as documentation concerning additions to this property subsequently made through conditional sale. We are now ready to send an official runner named Wu Chieh 司勸 to supervise the matter on the spot and a housing broker, Tung Teng-chieh 唐丁傑, to prepare the required guarantee. In the presence of a gathering of the elders of the Huang patrilinial descent group, the property of Huang T’ing-chi is to be divided. In an equitable way equal portions are to be given to the two heirs.

Returning to the Descent Line

AN UNWORTHY ADOPTEE IS ORDERED TO RETURN TO HIS NATAL FAMILY189

author: n.s.

This case begins with the striking assertion that there were circumstances in which a son, adopted in this case, could initiate a lawsuit that was partly a suit against his mother. It also provides information on the actual functioning of the bureau called the notary office. Suits involving family and property seem to have been heard by this office, one supposes noting under the direction of the administrative assistant. In this instance the person writing this opinion is concerned primarily to uncover evidence about character. The evidence, which seems to
A JUNIOR DISPUTING A PROPERTY SALE
BY HIS NATURAL FATHER

author: Ts'ai Chiu-hsüan

This case involves a man who was adopted out of his natal family. Given the general practice, we should assume that at the time of adoption he had living brothers. However, these potential heirs apparently died, for when his natal father died the family was declared to have been cut-off. The son who had been adopted out then sued to be made heir to his deceased natural father’s property. There are some factual matters in this case about which we are unsure. It seems possible that the adoptive father, before his death, sold some property which the son later claimed belonged to him alone. Despite these confusing questions of fact, the case is interesting as a reflection on the procedural relations between various components of the Sung local judicial system. The case may have originated on the district level, but we learn about it only at the prefecture, where it is given to the notary office which prepares a recommendation. Judging by other examples, this would have included legal citations and a recommendation for settlement. The matter then went on to the circuit judicial commissioner. Why? It is not clear but it seems most likely that one of the parties concerned refused to accept the position taken by the notary office. We also do not understand why it should have gone to the judicial commissioner rather than the fiscal commissioner. At the judicial commissioner’s office the case was reviewed by a legal researcher, who then forwarded his recommendation to Ts’ai Chiu-hsüan, who overturned all the recommendations of the lower offices but refused to make a final decision, leaving that to his colleague the fiscal commissioner.

On this matter, the property dispute originally raised by Chi’i Yuan-kuei, both the decision of the notary office of the prefecture and the proposal of the legal researcher of this judicial commission have missed the point. In this world what possible principle could permit someone to have two fathers or two roots? One should of course feel deep gratitude for the gift of upbringing, but the sense of righteousness that accompanies being an heir should be even more weighty. Having become the heir of someone else, a person can no longer concern himself with his natural parents.

It would have been improper for Chi’i Yuan-kuei to dispute with his natural father about the disposition of the family property of his natal parents (after he had been adopted by another family—cit.). For a similar reason, he has no right to take everything from that family back to his adopted family, that of Chi’i Kung-tan. If he did that, he would hardly be behaving like the heir of Chi’i Kung-tan, who was a former judicial official, since he would be acting in complete disregard of the regulations on heirs to extinct households as well as those on official auditing. This would not only create legal difficulties but also would violate principle. This sort of thing is what causes people to neglect the great ethical relations between fathers and sons.

When a junior has his property illegally sold by a senior, the law allows him to appeal to the government without a time limit. However, Chi’i Yuan-kuei appealed after the death of his adoptive father, Chi’i Kung-tan. Thus the above rule may not be applicable in rectifying this situation. However, as the judicial commissioner I do not wish to infringe upon the jurisdiction of the fiscal commissioner. It is difficult for me to render a decision. A certifying document shall be given to Chi’i Yuan-kuei so that he may make his appeal through the prefecture (to the fiscal commissioner).

CLANDESTINE SALE OF FAMILY PROPERTY
PRIOR TO FAMILY DIVISION

author: Weng Hao-t’ang

The events of this case seem to have occurred within two years after the death of the father, Fang Wan-liang. His eldest son, who managed the family properties, attempted to seize control over the entire estate by “adopting” the (only) son of the deceased middle brother, while still apparently controlling the property rightfully due to the youngest brother. The son of the middle brother behaved in a rebellious way, gambling, building up debts, and illegally selling some family property. Weng Hao-t’ang rules that the “adoption” was illegal. Under Sung law the only son of a family line could not be adopted out, which would
result in the ending of his natal patrimony. So the basic Sung law comes into effect, equal division between the eldest brother, the only son of the middle brother, and the youngest brother (who was the son of a concubine). Wang Hao-lung, not wanting the wasted son of the middle brother to benefit from the inheritance without paying some price for his illegal sale of land, orders that the young man be beaten one hundred blows and that the money in his possession be confiscated.

This case reveals that the law which awarded sons of concubines the same size share as sons of the principal wife was enforced in practice. Even more interesting is the provision made for the concubine and the basis on which this arrangement is made. She is provided with some land to be used to support her during her lifetime. Most significantly for what it says about the actual functioning of the Sung legal system, this decision to provide her with a life estate is made on the basis, not of written law issued by the central government, but of a precedent set by a nearby prefecture in deciding a similar case that had been selected by the office for the editing of imperial pronouncements for inclusion in what seems to have been a collection of precedents.

Fang Wen-liang方文亮 had three sons: the eldest, Fang Yen-te 方彦德, and the second, Fang Yen-ch'eng 方彦誠, by his former wife née Huang, and the youngest, Fang Yün-lao 方雲老, by his concubine née Li. Yen-ch'eng is deceased, but he is survived by a son named Fang Chung-i 方中計. Fang Wen-liang's son, Yün-lao, is now only two years old.

All the family property has been managed by the eldest son, Yen-te. Recently, according to Yen-te's affidavit, the young man, Chung-i, has behaved in an unprincipled way, gambling and clandestinely selling some landed property. When Chung-i was summoned and a detailed examination was made of his testimony and of the genealogical tree traced by the head of the common descent group, it was found that Chung-i was not the natal son of Yen-te, but his nephew (that is, the son of the second son, Yen-ch'eng). Therefore, Yen-te claims that he had adopted Chung-i as his own son. Certainly it is reasonable to adopt a nephew as one's son, yet Yen-te already had established his natural son named Fang Chung-er方仲永 as his heir. Yen-ch'eng, who was the natural father of Chung-i, had no other sons (so his line would die out if his son was adopted by someone else). How was it fitting for (Yen-te) to act for no apparent reason to confuse the descent branches and to sever the descent line of his deceased brother, Yen-ch'eng?

This whole problem arose because Yen-te intended to annex his brother's property so that he could benefit from the whole family estate. His designation of his nephew, Chung-i, as his son when such a status was improper and the fact that the reasons he gave did not reflect the real situation were the causes for Chung-i's unambitious behavior. This is why he squandered money in an unreasonable manner.

Hu Yuan-shih胡元什, Chu Wan-wu 趙萬五 (''Ten-thousand five'') and the like seized the opportunity to conspire and make profits. They tempted Chung-i to gamble. He lost as much as seven hundred odd strings of cash. Then clandestinely he signed some land deeds and some promissory notes for loans with interest.

The authorities have obtained three land deeds, which are not officially certified by being sealed. Upon examination we find that they were clearly signed and sealed by Chung-i. Certainly he is not free from guilt. (On the other hand) it is also true that his uncle, Yen-te, drove him to act in this way.

The investigation has shown that the mourning period for the late Fang Wen-liang is not yet completed and that his concubine surnamed Li, who is the mother of Yün-lao, is still alive. It is appropriate that we follow the previous decision of the office for the editing of imperial pronouncements (ch'ih-ling 敕令所) in the case of a certain Ch'en Shih-jen 陳師仁 in Ping-chiang Superior Prefecture 平江府 (the region west of present-day Shang-hai) and thus allot some land to Li, the concubine, for her support, dividing the rest of the land and property into three equal shares to be given to the three separately established households (of Yen-te, the line of Yen-ch'eng, and Yün-lao). This arrangement will accord both with humane moral feelings and with the intention of the law. No conflicts should arise again in the future.

On the question of Chung-i's three illegal deeds of conditional sale, if he were the natural son of Yen-te and would thus not be entitled to an inheritance (from Yen-ch'eng) then the proper solution would be not to seek for the money he has already spent but to restore the land (he illegally sold) to the rightful owner. However, Chung-i is the son of Yen-ch'eng and is due his share of the inheritance. (However), if his violation of the law through illegal conditional sale, discovered by his seniors, is not to be punished by the repayment of the money and he still will receive the landed property, then what will restrain other unworthy juniors (from imitating him)? This would amount to encouraging misconduct.