

of power, coercive though they were, destroyed for all time the old enfeoffment system and gave to the Chinese people a new sense of unity and identity. The destruction of the old feudal states, the shifts of population, and the wars and uprisings that accompanied the downfall of the dynasty, wiped out the old aristocracy of Zhou times and opened the way for new leaders and new families to rise to power. Nevertheless, the spectacular failure of the Legalists to stamp out rival schools of thought, to suppress criticism by police control, and to rule the people by exacting laws and harsh penalties, discredited Legalist policies for centuries to come. Later regimes might in fact make use of Legalist ideas and methods in their administrations, but never again did they dare openly to espouse the hated philosophy of the Qin. The First Emperor and his advisers became the symbols of evil and oppression in Chinese history, and the dynasty an example to all later rulers of what happens when the people are exploited and oppressed to the breaking point, when force and tyranny replace humane-ness and rightness as the guiding principles of government.

MEMORIAL ON ANNEXATION OF FEUDAL STATES

The foregoing view of the First Emperor and Li Si is reflected in the following memorials as recorded by Sima Qian, the foremost historian of early China. That Sima Qian's record represents a Han view of the Qin past is significant.

He who waits on others misses his opportunities, while a man aiming at great achievements takes advantage of a critical juncture and relentlessly follows it through. Why is it that during all the years that Duke Mu of Qin (659–621 B.C.E.) was overlord (*ba*) among the feudal princes, he did not try to annex the Six States to the east? It was because the feudal lords were still numerous and the power of the imperial Zhou had not yet decayed. Hence, as the Five Overlords succeeded one another, each in turn upheld the House of Zhou. But since the time of Duke Xiao of Qin (361–338 B.C.E.) the House of Zhou has been declining, the feudal states have been annexing one another, and east of the pass there remain only Six States.

Through military victories, the state of Qin has, in the time of the last six kings, brought the feudal lords into submission. And by now the feudal states yield obeisance to Qin as if they were its commanderies and prefectures. Now, with the might of Qin and the virtues of Your Highness, at one stroke, like sweeping off the dust from a kitchen stove, the feudal lords can be annihilated, imperial rule can be established, and unification of the world can be brought about. This is the one moment in ten thousand ages. If Your Highness allows it to slip away and does not press the advantage in haste, the feudal lords will revive their strength and organize themselves into an anti-Qin alliance. Then no one, even though he possess the virtues of the Yellow Emperor, would be able to annex their territories.

MEMORIAL ON THE ABOLITION OF THE ENFEOFFMENT SYSTEM

Numerous were the sons, younger brothers, and other members of the royal family that were enfeoffed by King Wen and King Wu at the founding of the Zhou dynasty. But as time passed, these relatives became estranged and alienated one from another; they attacked each other as if they were enemies. Eventually the feudal lords started wars and sent punitive expeditions against one another, and the king could do nothing to stop them. Now, owing to the divine intelligence of Your Majesty, all the land within the seas is unified and it has been divided into commanderies and prefectures. The royal princes and the meritorious ministers have been granted titles and bountiful rewards from the government treasury,⁷ and it has proved sufficient. When the government institutions have been thus changed and there has been no contrary opinion in the empire, it is evidently the way to keep peace and quiet. To institute an enfeoffed nobility again would not be advantageous.

[*Shiji* (BNB) 6:12b — BW]

MEMORIAL ON THE BURNING OF BOOKS

Among the most infamous acts of the First Exalted Emperor of the Qin were the "burning of books," ordered in 213 B.C.E., and the "execution of scholars," ordered in 212. The first was an effort to achieve thought control through destroying all literature except the *Classic of Changes*, the royal archives of the Qin house, and books on technical subjects, such as medicine, agriculture, and forestry. The measure was aimed particularly at the *Classic of Documents* and the *Classic of Odes*. The execution of some 460 scholars in the following year⁸ was an attempt to eliminate opposition to the emperor by ruthlessly destroying all potentially "subversive" elements in his entourage. The two measures taken together suggest something of the habit of mind of the First Emperor, as he was influenced by advisers like Li Si, but, again, it is significant that the following document comes down to us from the ensuing Han period.

In earlier times the empire disintegrated and fell into disorder, and no one was capable of unifying it. Thereupon the various feudal lords rose to power. In their discourses they all praised the past in order to disparage the present and embellished empty words to confuse the truth. Everyone cherished his own favorite school of learning and criticized what had been instituted by the authorities. But at present Your Majesty possesses a unified empire, has regulated

7. That is, instead of being granted noble titles and income from a fief, they have received honorary ranks and salaries paid out of taxes.

8. Traditionally referred to as "the burial of the scholars," on the view that the scholars were actually buried alive, though it is not certain that they met their end in this way.

the distinctions of black and white, and has firmly established for yourself a position of sole supremacy. And yet these independent schools, joining with each other, criticize the codes of laws and instructions. Hearing of the promulgation of a decree, they criticize it, each from the standpoint of his own school. At home they disapprove of it in their hearts; going out they criticize it in the thoroughfare. They seek a reputation by discrediting their sovereign; they appear superior by expressing contrary views, and they lead the lowly multitude in the spreading of slander. If such license is not prohibited, the sovereign power will decline above and partisan factions will form below. It would be well to prohibit this.

Your servant suggests that all books in the imperial archives, save the memoirs of *Qin*, be burned. All persons in the empire, except members of the Academy of Learned Scholars, in possession of the *Classic of Odes*, the *Classic of Documents*, and discourses of the hundred philosophers should take them to the local governors and have them indiscriminately burned. Those who dare to talk to each other about the *Odes* and *Documents* should be executed and their bodies exposed in the marketplace. Anyone referring to the past to criticize the present should, together with all members of his family, be put to death. Officials who fail to report cases that have come under their attention are equally guilty.⁹ After thirty days from the time of issuing the decree, those who have not destroyed their books are to be branded and sent to build the Great Wall. Books not to be destroyed will be those on medicine and pharmacy, divination by the turtle and milfoil, and agriculture and arboriculture. People wishing to pursue learning should take the officials as their teachers.

[*Shiji* (BNB) 87:6b-7a — BW]

MEMORIAL ON EXERCISING HEAVY CENSURE

The worthy ruler should be one able to fulfill his kingly duties and employ the technique of censure.¹⁰ Visited with censure, the ministers dare not but exert their ability to the utmost in devotion to their ruler. When the relative positions between minister and ruler are thus defined unmistakably, and the relative duties between superior and inferior are made clear, then none in the empire,

9. The passage from the beginning of the paragraph to this point has been inserted from the fuller account given in the *Records of the Grand Historian* (*Shiji*) 6:23b.

10. The Chinese term rendered as "censure" here may be more literally translated as "inspection and punishment." To relieve the awkwardness from the repeated use of this cumbersome expression, we have adopted "censure" as a more convenient, though less exact, equivalent throughout the memorial.

whether worthy or unworthy, will dare do otherwise than exert his strength and fulfill his duties in devotion to the ruler. Thus the ruler will by himself control the empire and will not be controlled by anyone. Then he can enjoy himself to the utmost. How can a talented and intelligent ruler afford not to pay attention to this point?

Hence, Shen Buhai¹¹ has said, "To possess the empire and yet not be able to indulge one's own desires is called making shackles out of the empire." The reason is that a ruler who is unable to employ censure must instead labor himself for the welfare of the people as did Yao and Yu. Thus it may be said that he makes shackles for himself. Now, if a ruler will not practice the intelligent methods of Shen Buhai and Han Feizi, or apply the system of censure in order to utilize the empire for his own pleasure, but on the contrary purposelessly tortures his body and wastes his mind in devotion to the people — then he becomes the slave of the common people instead of the domesticator of the empire. And what honor is there in that? When I can make others devote themselves to me, then I am honorable and they are humble; when I have to devote myself to others, then I am humble and they are honorable. Therefore he who devotes himself to others is humble, and he to whom others devote themselves is honorable. From antiquity to the present, it has never been otherwise. When men of old considered anyone respectable and virtuous, it was because he was honorable; when they considered anyone despicable and unworthy, it was because he was humble. Now, if we should exalt Yao and Yu because they devoted themselves to the empire, then we would have missed entirely the reason for considering men respectable and virtuous. This may indeed be called a great misapprehension. Is it not fitting then to speak of it as one's shackles? It is a fault resulting from the failure to exercise censure.

Hence, Han Feizi has said, "The affectionate mother has spoiled children, but the stern household has no overbearing servants."¹² And the purpose for saying so is to make certain that punishments are applied.

Hence, according to the laws of Lord Shang [Shang Yang], there was corporal punishment for the scattering of ashes in the streets. Now, the scattering of ashes is a small offense, whereas corporal punishment is a heavy penalty. Only the intelligent ruler is capable of applying heavy censure against a light offense. If a light offense is censured heavily, one can imagine what will be done against a serious offense! Thus the people will not dare to violate the laws. . . .

The fact that intelligent rulers and sage kings were able for a long time to

11. A Legalist philosopher, d. 337 B.C.E.

12. Han Feizi, ch. 50. Watson, *Han Fei Tzu*, p. 125.

occupy the exalted position, hold great power, and monopolize the benefits of the empire is due to nothing other than their being able, on their own responsibility, to exercise censure without neglect and to apply severe punishments without fail. It was for this reason that none in the empire dared to be rebellious. If, now, a ruler does not busy himself with what prevents rebellion, but instead engages in the same practices by which the affectionate mother spoils her children, indeed he has not understood the principles of the sages. When one fails to practice the statecraft of the sages, what else does he do except make himself the slave of the empire? Is this not a pity? . . .

The intelligent ruler is one able . . . to exercise alone the craft of the ruler, whereby he keeps his obedient ministers under control and his clear laws in effect. Therefore his person becomes exalted and his power great. All talented rulers should be able to oppose the world and suppress established usage, destroying what they hate and establishing what they desire. Thus they may occupy a position of honor and power while they live and receive posthumous titles that bespeak their ability and intelligence after they die. So, the intelligent ruler acts on his decisions by himself, and none of the authority lies with his ministers. . . . Stopping the avenues of hearing and sight, he sees and hears inwardly by himself. Then from without he cannot be moved by the deeds of humane and righteous men . . . from within he cannot be carried away by arguments of remonstrance and disputation. Therefore he is able to act according to his heart's desire, and no one dares oppose him.

Thus only may a ruler be said to have succeeded in understanding the craft of Shen Buhai and Han Feizi, and in practicing the laws of Lord Shang. I have never heard of the empire falling into disorder while these laws were practiced and this craft understood. Hence, it is said that the way of the king is simple and easily mastered, yet only the intelligent ruler is able to carry it out.

Thus only may the exercise of censure be said to be real. [When the exercise of censure is real], the ministers will be without depravity. When the ministers are without depravity, the empire will be at peace. When the empire is at peace, its ruler will be venerated and exalted. When the ruler is venerated and exalted, the exercise of censure will be without fail. When the exercise of censure is without fail, what is sought for will be obtained. When what is sought for is obtained, the state will be wealthy. When the state is wealthy, its ruler's pleasures will be abundant. Therefore, when the craft of exercising censure is instituted, then all that the ruler desires is forthcoming. The ministers and people will be so busy trying to remedy their faults that they will have no time to scheme for trouble.

Thus is the way of the emperor made complete, and thus may the ruler be said really to understand the craft between ruler and subject. Though Shen Buhai and Han Feizi were to return to life, they would have nothing to add.

[From *Shiji* (BNB) 87:15a-18a — BW]