

CLARENCE MORRIS AND HIS CONTRIBUTION TO THE STUDY OF CHINESE LAW

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When a visitor to the Law School of the University of Pennsylvania enters the new wing of the Law School building on the way to the Dean's office, he finds himself passing a rather curious bronze beast standing on a large lump of stone. On a pillar next to it is a metal plaque which informs the reader in Chinese and English that this beast is a Hsieh-chai, an ancient Chinese supernatural animal, goat-like in appearance but having only one horn. It was endowed with the faculty of detecting the guilty, and when the legendary Minister of Justice, Kao Yao, was deciding difficult cases, he would often order the Hsieh-chai to seek out and butt the guilty party.

Now, this modern Hsieh-chai, commissioned by Clarence Morris and cast by the well-known Philadelphia sculptor, Henry Mitchell, in 1962, serves as a sort of School mascot, its horn, nose, and tail having been polished to a bright shine by students seeking good fortune on their way to exams. It also stands as a small monument to Clarence's contributions to the study of Chinese law in the United States.

Clarence had already developed a strong interest in comparative studies and had done considerable work in Soviet law when he was invited by the University's Department of Oriental Studies to participate in a two-year seminar dealing with Oriental legal systems in the autumn of 1959. Throughout the following two years his presence in the seminar was strongly felt by the rest of us who were primarily Orientalists steeped in the language and culture of our respective areas ranging from Egypt to Japan but usually novices in the study of law. Thus Clarence, the outsider, by asking questions which cut through our culture-bound dialectic often gave new dimensions to our discussions and turned the seminar into a truly memorable experience.

That portion of the seminar dealing with China was given by Derk Bodde, Professor of Chinese Studies, and it was here that Clarence became most involved. So much so in fact that after the conclusion of the seminar, in the spring of 1961, he invited Derk Bodde and myself to join him in offering a course on Chinese legal thought in the Law School. This course, irreverently dubbed "Chink Think"

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by the students, became perhaps the first course solely devoted to Chinese law ever offered by a law school in the United States or Europe, and enjoyed considerable popularity during the five years it was given. Derk Bodde handled the traditional period and I the Republican and Communist eras. Clarence tied it all together by relating our specific material to the subject of law as a whole. No other legal system presents such study in contrasts with our own, and under Clarence's direction both students and faculty connected with the course found intellectual stimulation far beyond their usual University experience.

In order to provide the students with something to read, Clarence arranged for some financial assistance from the Law School's Institute of Legal Research which enabled Derk Bodde and myself to collect and translate a wide range of Chinese legal materials. Derk Bodde's work culminated in the translation of large sections of a huge Ch'ing dynasty conspectus of penal cases. These translations in turn served as the basis for the major work in the field of China's traditional legal system, *Law in Imperial China*, which he co-authored with Clarence and for which Clarence provided the overall editorship and extensive juridical comments in a chapter on "Statutory Interpretation Exemplified in the Cases." At the same time Clarence and I produced a collection of mimeographed materials entitled "Legal Thought and Institutions of the People's Republic of China."

Aside from these works, which were primarily oriented toward providing teaching materials, the course stimulated a wide range of research and a number of publications by ourselves and our students.¹ In his book *The Justification of Law* Clarence has a special chapter on "The Board of Punishments' Interpretation of the Chinese Imperial Code." In another chapter of the same work entitled "The Rights and Duties of Beasts and Trees" he devotes considerable attention to Chinese tradition.

For all of this work at Pennsylvania we owe a special debt of

¹ Articles by Derk Bodde include: *Basic Concepts of Chinese Law: The Genesis and Evolution of Legal Thought in Traditional China*, in 107 AM. PHIL. SOC'Y PROC., Oct. 1963, at 375; *Prison Life in Eighteenth Century Peking*, in 89 J. AM. ORIENTAL SOC'Y 311 (1969); *Legal Sources*, to be published in SOURCES ON CHINESE HISTORY (D. Leslie, C. Mackerra & Wang Gungwu eds.); *Age, Youth, and Infirmary in the Law of Ch'ing China*, which is contained in this issue of the *University of Pennsylvania Law Review*. In addition I contributed a short article on *Voluntary Surrender and Confession in Chinese Law: The Problem of Continuity* to 30 J. ASIAN STUD. 797 (1971).

Out of the course evolved two Ph.D. dissertations, one by Wallace S. Johnson Jr., *The T'ang Code: An Analysis and Translation of the Oldest Extant Chinese Penal Code, A.D. 635*, in 1968 (unpublished thesis in Van Pelt Library, University of Pennsylvania), and the other by Patricia Peck Griffin, *The Chinese Communist Treatment of Counter-revolutionaries 1924-49*, in 1971 (unpublished thesis in Van Pelt Library, University of Pennsylvania).

gratitude to Clarence, but his inspiration has not been confined to this institution alone. In March 1963 he helped organize a panel on "Law and Social Change in China" for the annual meeting of the Association for Asian Studies held here in Philadelphia, and, taking advantage of this opportunity, arranged for the first national get-together of people interested in Chinese law at a cocktail party held in the Law School. Out of this came a proposal to the Joint Committee on Contemporary China of the American Council of Learned Societies and the Social Science Research Council to support the compilation of a Chinese-English dictionary of Communist legal and institutional terms. The resulting *Dictionary of Law and Administration in Communist China*, compiled by Philip R. Bilancia and soon to be published by Stanford University Press, is without question the most significant work of its kind produced since World War II.

In 1965 the Joint Committee on Contemporary China appointed a subcommittee on Chinese law, whose major mandate was to plan a series of conferences designed to enhance cooperation among researchers in this country and abroad. Clarence was one of the three original members of this subcommittee which organized its first conference on "Tools for Research," in Bermuda, in 1967. A second conference on "China's Legal Tradition" was held in Bellagio, Italy, in 1969. The results of the first conference, edited by Jerome Alan Cohen, have already been published under the title *Contemporary Chinese Law: Research Problems and Perspectives*. A volume covering the results of the second conference is to be published by Harvard University Press in the near future.

Perhaps Clarence's greatest contribution to the study of Chinese law was his basic humanistic approach. At a time when most Americans studying China, especially contemporary China, were strongly influenced by cold-war ideology, Clarence viewed Chinese law as a vital touchstone of a major non-Western civilization and a key to a better understanding of our own institutions. Along with his interest in law went a much broader interest in Chinese civilization as a whole. He read extensively about China, developed a taste for Chinese painting, acquired a creditable collection of Chinese jade, and is one of the few men I have ever known to learn to read classical Chinese on his own. Such men as Clarence are indeed rare. It has been our special good fortune that he has been here to so enrich the lives of those of us privileged to know him.