

CHAPTER ONE

The Constitution of the Territory and Politics of a Large State

Su Li

*Under the wide heaven, there is no land which is not the king's;
Within the land's sea-coasts, there is no one who is not the king's subject.*

—BOOK OF POETRY, “NORTH MOUNTAIN”¹

A State must rely on its mountains and rivers.

—SAYINGS OF THE STATES: ZHOU²

The Problem Posed by a Large State

It is very difficult to form a state in a traditional rural economy of small self-sufficient villages. First, it is hardly necessary to do so. “At sunrise we set out to work; at sunset we return to rest. We bore wells and drink; we plough the fields and eat. Of what use is the emperor’s beneficence to us?”³ These lines, which are said to come from one of the earliest folk songs recorded in China, express the idea that peasants have no need for a political system or an emperor. Even though government may be necessary to avoid the occasional conflicts and wars that might break out between agricultural communities—there may be a need for an arbitrator whose power transcends that of the particular villages—living in villages “where the sound of chicken and dog carries and the people do not ever meet each other,”⁴ people have very little need of a large state or even any idea of what one might be like. It is even difficult to form a large state, not only because—more so than in a commercial society—it is very difficult to collect the taxes that are needed to support an effective administration, and because it is very difficult to support the administrative apparatus

of a large state, but also because heaven is high and the emperor far off, so the administration has great difficulty in entering into the villages. Thus, how can the hearts and minds of the people be led to identify with a state? Information about the change of a dynasty could not be passed on even six hundred years after the event—"they had no knowledge of the Han dynasty, let alone the Wei and Jin," Tao Yuanming (陶渊明) says.⁵ Although the Peach Blossom Land described by Tao may be an exception or even a figment of the author's imagination, it nonetheless sets out the issues.⁶

As I mentioned in my introduction, regulating the Yellow River demands a unified coordination of an even larger area. There is also conflict, opposition, and unification between the agricultural civilization of the central plain and the pastoral civilization of the north. These two major factors led the agricultural communities in this area to establish and uphold a unified administration.⁷ The two areas involved were not only very large but also virtually overlapped. Management of the water was largely focused on the middle and lower reaches of the Yellow River, but competition with the pastoral peoples led to this area expanding ever further westward, across the plain formed by the River Wei to the south-central section of present-day Ningxia and Gansu. The two factors of the regulation of a long river and the clash of two civilizations were ongoing issues in premodern times, and so the need for administration was ever present.

Historical records that predate modern archaeological discoveries show that during the time of China's first three dynasties—the Xia, Shang, and Zhou (ca. twenty-first century BC to 256 BC)—the territory under central rule was already significant and the population not small. Political rule was maintained for a sufficiently long time and each dynasty was a direct successor of the preceding one and built on its foundations. They conquered and absorbed small states on the borders, expanded the influence of the soft and hard power of their political culture over the territory under their sway, and gradually increased their actual rule over several areas. By the time the Western Zhou adopted a feudal system for royal princes, the area controlled by the Zhou, as can be seen from the territories assigned to the princes, covered the modern province of Shandong, most of Henan, the west of Hebei and Shanxi, the center of Shaanxi, the east of Gansu, and the north of Jiangsu, Hubei, and Anhui, a total area of nearly one million square kilometers. Since it is not possible to determine the borders of the Xia, Shang, and Zhou with great accuracy, there can be no sensible estimate of the total population.⁸ Yet the area and population both exceeded those of the thirteen colonies that formed the United States, at which time America was already a large state by European standards, and only then did the issue of being a large state arise.⁹

Although various dynasties rose and fell over this area of land and there were revolutions such as from the feudal system to that of commanderies and counties, and even long periods of war and chaos, division and separation,

with bordering tribes entering into the central plain, gradually bringing about an integration of peoples, by the Qing dynasty China's borders encompassed an area of thirteen million square kilometers and a population of 450 million. Therefore, on the basis of the size of its territory and population, this broad area of land called China from the Western Zhou onward showed an overall tendency to seek the kind of administration a large state needs. In general, since the foundation of the empire by the Qin and the Han, it never lost the status of a large state with centralized power unifying many peoples. The main dynasties generally ruled for two to three hundred years and, objectively speaking, provided a long period of peace for ordinary people. From this we may postulate that the people of this land had their own inherent and sustained reasons for creating the administration of a large state, since from an empirical point of view the administration of this large state was created by the dynasties and politicians throughout history. It was something that they imposed on the people of this area.

A large state is not a small state writ large; the administrative requirements of a large state are not the same as those of a small state. While not denying the special wisdom and organization of some small states wedged between large states—the practical wisdom of the ancient Greek city-states is indeed widely consulted by scholars of many countries even today—Aristotle also recognized that the population of a city-state could not be too large, since the larger it became the more difficult it was to administer.¹⁰ A god would be required to do so. Who could really believe that it might be more difficult to administer Singapore, Nauru, or Tonga than China, the United States, or India? Would a more complex form of organization be required? Even if both large and small states have their own peculiar problems, this only implies that in the matter of administration of states there can hardly be any “common standard for any place surrounded by four seas,” some kind of magical administrative panacea.

In fact, because the area covered is very broad—something implied by the notion of a large state—it will encompass many different kinds of terrain that might even be separated geographically or topographically. The means of production in the diverse areas will differ, and so there will be many cultural groups, dialects, and writing systems. Although these need not lead to cultural barriers, they quite probably will tend in that direction. It is hard to please all tastes, and so with more tribes and peoples the chances of differences leading to conflict are greater. Indeed, even among a people who share one common culture, even among members of the same society or community, an increase of population will necessarily lead to greater separation of interests and even to contradictions and divisions.

Hence, the greatest difference between large and small states must surely lie in their constitution (Constitution/formation). Small states, such as the Greek city-states, have no problem with different levels of administration, but

in large states there is clearly a need for some kind of administrative hierarchy, and so there is what might be termed the issue of “the relationship between the center and the peripheries.” The existence of this issue gives rise to the danger of possible separation of certain peripheral areas, which invariably implies war, as in the Civil War in the United States or the referendum on Scottish independence of 2014.¹¹ Furthermore, unlike island states, continental states face the issue of why there should be one state rather than many. Why is it that some rivers and mountain ranges constitute political boundaries and others do not? At least in some cases, these boundaries must be created by human administrations rather than by nature.

The first issue that constitutes a problem here is how historical China became a geographically large state. One might say that historical China was gradually built up in the course of history, but what history or what modern state has not previously faced different periods and levels of history in one way or other, including clan-based, village-based, tribal-based, even state-based incorporation, absorption, and integration? Without being the chosen people of God or enjoying the blessings of a leader, how is it that there can be a China that has lasted for three thousand years since the Western Zhou in this territory? Is this simply an accident of history? Why has history not shown a similar preference for the Xiong-nu (Huns), who once held sway over the northern part of the central plain, or some other great people of the continental steppe of Eurasia, or the Greeks, who were roughly contemporaneous with the Western Zhou and the Spring and Autumn and Warring States periods in China, or even the later Macedonia? Besides the idea of undertaking military conquest, there is also the issue of holding onto power. Alexander the Great created the Macedonian Empire, which straddled the Eurasian landmass and North Africa, but when he died the empire split into several parts. This is rather similar to what happened a century later on the death of the Second Emperor of Qin. But the point is that shortly afterward, the Han succeeded the Qin and created an even larger empire that lasted for four hundred years, through the Western and Eastern Han dynasties. The same scenario was played out again and again before the present formation of China, whereas Macedonia never again appeared in history.

A large state is not the product of a wide and fertile terrain. An abundance of natural resources would seem to imply that a larger population could survive in a given area, but it cannot guarantee that these people will get along harmoniously or respect one another or form and maintain a sufficiently large population that they can establish and sustain a long-lasting, peaceful, united, and large state. The vast expanse of continental Africa is far greater than the plains of East Asia, yet it has never given rise to a large state on the scale of the Han or the Tang. Even at the time of the Roman Empire it would be very difficult to say that Central and Western Europe enjoyed the peaceful and unified rule of a large state, since not only were there constant wars, there were, even

more important, divisions that are still manifest in today's European Union. It was only after its "discovery" by Europeans that the fertile land of North America produced a large state. Throughout history there have been several empires in the Eurasian landmass, including the Mongol Yuan dynasty, which entered into Chinese history, but all have passed when the wind blew them away. In terms of being a territorial state/civilization, and not just a civilization like ancient India or Arabia, and one that has continued as a large state, historical China, it would seem, is the only contender.

Vast distances and complex terrain will obviously weaken the administrative power of the center over the peripheries and lead one to the reasonable hypothesis that, without the support of an outstanding and effective organization along with the length of time in office, alertness, and wisdom in constitutional practice of a ruling class, then the very size itself will play against their being able to form a state, or at least if one happened to be formed then they would not be able to continue ruling it for long. Of course, the constitution of any state must come about as the product of basic political, economic, military, and cultural components; there is no such thing as a unique hidden weapon. Therefore, this chapter concentrates on examining the constitutional framework that encouraged, sustained, and expanded historical China so that it became a large state, and in particular on a *broad understanding* of the relationship of the center to the periphery.

The next section discusses the feudal system of the Western Zhou. This should not be taken as meaning that the relationship between the Son of Heaven and the feudal states was one of the center to the periphery.¹² Rather, I have good reason to place it in the context of a broad theoretical framework of the relationship between the center and the periphery and to analyze it as such. I shall look at it as constituting the earliest attempt to create the constitutional setup of a large state and as establishing the conditions for the later conversion into the commandery system (郡县制). Even in the Qin and Han, the feudal system was highly regarded for a time and served as one choice for the constitution of a large state, but based on a cost-effective analysis it was rejected or at least set aside as a form of political practice. The third section will consider the significance and role of the commandery system for the political constitution of ancient China. The fourth section discusses the geopolitical considerations that played a role in the administrative divisions of historical China. Faced with a large country encompassing many different forms of terrain and seeking to prevent separation or division and to strengthen the central government, the central authorities needed to adopt certain constitutional measures to deal with these considerations. Yet such considerations and practices are completely absent from Western constitutional practice and the academic tradition. The focus of the fifth section is another basic issue in the constitutional tradition of historical China, namely, that from the Western Zhou on, there was the additional remit of "bringing peace to the world under

heaven,” which went beyond administering the central, agricultural region (“administering the state”); that is, it was necessary to provide a basic structural framework to regulate potential conflict between an agricultural China and the surrounding peoples. Although this issue is not directly equivalent to the relationship between the center and the periphery, it was at least sometimes in history formulated as parallel to this relationship. Finally, I draw a conclusion.

The Feudal System during the Western Zhou

The Chinese of a later time generally depict the commandery system as having provided historical China with its strongest and most powerful form of centralized power appropriate to the constitution of a large state, but the first attempts to draw up this constitutional framework should be traced back to the feudal divisions of the Western Zhou, for three reasons. First, the land-mass under the rule of the five emperors of early legends was comparatively small and the Xia and Shang were still states composed of villages or leagues of villages, whereas the Western Zhou was—or, rather, more closely resembled—a large state with a political class. Second, counting from the decision by King Ping to move the capital east in 771 BC, the royal power of the Zhou Son of Heaven went into decline. The feudal states struggled fiercely among themselves, but before this the feudal system provided the Western Zhou with more than 270 years of stable political order. Third, no feast lasts forever. Any structure created by human beings is bound to succumb to history. Long and short are merely relative. What matters is to what extent the feudal system contributed to the constitution of a large state and whether that contribution was irreplaceable in its own time.

For this reason alone, the contribution of the feudal system of the Western Zhou to the constitution of historical China should not be underestimated. Although the Xia and the Shang had already held sway over a sufficiently broad territory, they did not exercise territorial jurisdiction or rule based on territory. Rather, towns and their hinterland constituted “hot spots” that had no clearly defined boundaries. That villages were granted the status of “fief” under the Xia and Shang was far more a matter of recognition of the political reality of a confederation of villages. In contrast, historical records inform us that in the early years of the Western Zhou, a whole series of new factors were added to those constituting the organization of the state. In addition to confirming that the lower reaches of the River Wei and the middle reaches of the Yellow River came under the direct rule of the special central area, the royal domain, the Zhou Son of Heaven, “set up the feudal princes and split the land among the people.” He divided all of the land outside the royal domain into many parcels of various sizes based on the population living there and placed his relatives or meritorious ministers as fief holders, leaving some villages unconquered.

He established states ruled by princes of the blood and other states ruled by others.¹³ The fiefs of the Western Zhou brought to the earlier “separate” and “established” entities a new order that gradually led to the creation of a class and body of fief-holding princes.¹⁴

This implies, first, that the Zhou Son of Heaven was actively pursuing a form of direct political power and not simply passively recognizing the actual power of existing tribes or leaders. The use of “separate” and “established” entities shows that the highest ruling layer of the Western Zhou had the same awareness of how politics could be used to shape a state as did the Xia and the Shang and, more important, made efforts to begin this system. Second, although they lacked sovereignty, the feudal princes had land, people, and a political establishment and thus in these respects were very like modern states. The land and people held by the feudal states all came from the Zhou Son of Heaven. Since the power of governance of the feudal princes could not be rescinded and also came from the Zhou Son of Heaven, they too belonged to this one body. Third, the “establishment” of the princes led to the creation of a new level of political units and bodies and formed a political system for the empire centered on the Zhou Son of Heaven. The very creation of a large number of feudal states of royal blood and of others administered by meritorious ministers led to a relationship between the Zhou Son of Heaven and the feudal states that, in a broad sense, is of a center to the periphery. The Zhou Son of Heaven became the prince of the feudal lords, unlike in the Xia and Shang, when the king was merely the leader of the feudal lords. Fourth, the existence of graded “fiefs” is itself an indication of the rationalization of this system. Fifth, exchanges on the frontiers, whether of tribes or of dependent states, including military conflict, also led the so-called barbarian peoples beyond the fringes of the central area—the Rong, Di, Man, and Yi—to enter into the “world under heaven” of the Zhou.¹⁵ Therefore, all of this attests to the political awareness of the upper echelon of political leaders in the early years of the Western Zhou and a new understanding of political order at that time, as well as a new way of thinking about how to rule the empire. Behind these ideas, it is clear that the Zhou Son of Heaven had sufficiently strong economic and political might to enforce his plans and ideas for the country. “Under the wide heaven, there is no land which is not the king’s; within the land’s sea-coasts, there is no one who is not the king’s subject.” This expresses not only the constitutional self-awareness and perspective of the Western Zhou but also, and more important, its active, conscious, clear political and constitutional practice. Thus, this is the earliest record of the political constitution of a large state.

It must be recognized that the feudal states of the early Western Zhou were not countries with clearly defined borders. There was a clear distinction, however, between the state and the wilds outside the direct rule of the Zhou king and the feudal states. The cities and their hinterland occupied by the king and the feudal lords were called “states,” whereas what lay beyond was called

“wilderness.” People who lived in the states were people of that state, whereas those outside were “barbarians” in the original sense of this word. In the early years, this clear distinction between states and wilderness was not so explicit, since the Western Zhou had not yet become a complete territorial state. The core framework and strength of its political administration tended to rely more on various blood relationships. The relationship of the Zhou king and the feudal lords to their states was limited to that of states based on the state-wilderness distinction.¹⁶

Things being so, the idea of “separation” of territories and their people already shows that political administration had *begun* to move in the direction of territorial jurisdiction over people. The structure of this system, founded by the Western Zhou, already provided the conditions for the creation of a territorial state. At least by the Spring and Autumn period, the distinction between state and wilderness had gradually disappeared in the case of the feudal states. “When the rituals are lost [in the state], look for them among the barbarians”: this statement indicates that the culture of the states already had a great influence on the wilderness.¹⁷ Border conflicts among the central feudal states had already brought it about that their frontiers were tightly interlocked. This in itself is a sign that the feudal kings’ territorial understanding and the effectiveness of their rule over their states had grown in strength, which shows, in turn, that China had already completed the transition from being governed by clan law to becoming historical China.¹⁸

The Western Zhou consciously discarded clan law and blood relationships as a means for establishing the organization of a large state. It cannot be overlooked that the Western Zhou granted feudal princely status to a number of meritorious ministers, thus creating states that did not share the royal bloodline. This step amounts to rewarding the capacity and loyalty of an elite and is a first step on the road to developing a meritocracy.¹⁹ In the context of the times, this indicates a breaking away from the principle of clan law. It is an exception. Indeed, it may even be termed an infringement of the then “rule of law,” the ritual order. Yet, later history shows that this was a great precedent precisely because it violated the principle of the ritual order of a law derived from clan-based relationships.

But the politicians of the Western Zhou looked not just to what was before their eyes. What they had to consider and do was actually much greater. In such a large territory, which handicapped transportation and transmission of information, the feudal states, each ruling in its own time, lacked sufficient political, economic, and cultural exchange as well as sufficient common interests and need for interdependence for them ever to meet, not even once. Could such a structure last for long? Time would gradually, and in the end completely, dilute the close ties that had begun in blood relationships, in theory leading clan law relationships to cede to territorial ones—actually, relationships of interest. Conflict over interests among the feudal states would

necessarily give rise to struggles for land, people, wealth, status, and power. A constitutional framework buttressed by blood relationships would certainly collapse. With a clear understanding of this distant yet concealed danger, a great, farsighted politician, the Duke of Zhou, while taking feudal clan law as his foundation, created an orthodox state ideology, namely, the rites of Zhou, as a support for the constitution of his time. Thanks to rituals enacted at fixed times in honor of distant ancestors, he aimed to renew and reawaken and thus strengthen the recognition of the blood relationships with the Zhou royal house and thereby promote unity.²⁰ Even if he did not think this would be effective forever, as a first step it was a response to present realities and current issues, because, as the saying goes, “in the long run we will all be dead.”

In this sense, the rites of Zhou virtually amount to the constitutional norms and theory universally shared and accepted by the then ruling class. This was not only a case of the individual’s belief that “without studying the rites there is nothing to stand on,” but also, even in the entertainments practiced by the feudal princes, there were to be no infringements of the rites of Zhou; as Confucius said, “If this is acceptable, then what can ever be unacceptable?” Even more important, the feudal states not of the royal bloodline were also obliged to observe the same rites. This implies that the Zhou rites only *appeared* to be clan law; in fact, they went beyond it.

This all happened in the eleventh century BC during the Western Zhou in a territory of around 1.5 million square kilometers. It can be said, with reason, that this was the earliest time in human history that an attempt was made to establish the horizontal distribution of political power necessary to a large state. It is the earliest manifestation of a relationship between the center and the periphery ever created by humankind. From the Western Zhou until the early years of the Spring and Autumn era, this setup remained in place and in large measure maintained stability and thus can be identified as a viable form of constitution for that time.

It is true, however, that “there is no form of organisation that can be founded on love.”²¹ Even the love of kith and kin could not sustain the practice of the rites of Zhou. The brilliant designs and political ideology of the Duke of Zhou could not hope to maintain the fight against the ravages of time forever, much less contend against the onslaught of vested interests founded on blood relationships. It was not only that elder and younger brothers, uncles and nephews who, in name at least, were part of the clan, quarreled with one another—disagreement leading to strife and even war, assassination, and usurpation—but also that this, in turn, led to others relying on their own political might to struggle for power, position, and other related benefits. During the Spring and Autumn and Warring States periods, rebellious ministers and rapacious sons were everywhere to be found.²² The statement that “the rites were in disarray and music corrupt” implies that China at the time was no longer able to continue to govern according to the feudal system under clan law.

The most striking and most important feature of the constitutional framework of the whole state was the relationship between the center and the periphery. This had to be changed. Perhaps this is the first reform in the administration of China as a large state, and the most important one in Chinese history.

Many thinkers suggested ways of reforming the constitution. The basic plank of the Confucians was “to follow the old norms without error and without fail,” or what modern legal scholars would describe as “following precedent,” the aim being to keep in check the excesses of Realpolitik. On the basis of their idealized view of the Western Zhou, they proposed the core constitutional principle of their own ideal state: “When the world under heaven has the Way, then rites, music, war, and punishments proceed from the Son of Heaven.”²³ The two key points in this program were that all administrative regulations and laws must be united, and that they should all originate from the Son of Heaven, that is, from the central administration.

The more pragmatic Legalists advocated a legal centralism for the whole country, as did the Confucians, and, even more important, after reflecting on the political experience of the rationality and failure of Western Zhou feudalism, they proposed a more refined solution to the issue of the relationship between the center and the periphery that would be necessary for the administration of a large state: a separation of powers such that “while governance reaches to the four quarters, yet the key is in the centre. The sage grasps the key and the four quarters carry it out.”²⁴ This solution encapsulates a further important principle that is found in ancient China’s constitution—a political elite drawn from the *whole country*, even though it had to wait for several centuries before other measures had been put in place to ensure that it could begin to be implemented.²⁵ The eclectic philosophy of *Mr Lü’s Spring and Autumn Annals* explicated the pithy saying “there is no greater disaster than the lack of a Son of Heaven” as follows: “There must be a Son of Heaven in the world under heaven and so there is only one. The Son of Heaven must grasp the One to hold all in his hand. Unity brings ordered rule; division produces chaos.” Or, again, “Unity brings ordered rule; difference produces chaos; unity leads to stability; difference to peril.”²⁶ For *Mr Lü’s Spring and Autumn Annals*, the core issue is to reestablish a unique sovereign political power for the state as well as its real control and political sway over the whole world under heaven.

Commanderies, Counties, and Other Measures of Centralized Rule

It was not only thinkers who thought about this problem; even before that, new structures began to emerge, far more practical and concrete. Toward the close of the Spring and Autumn period, out of necessity, there were already several reforms happening that today we might describe as being of constitutional significance, based on a drawing together of the strands of history. To

cope with an expansion of their territory, the states of Qin, Jin, and Chu had already developed some new political units—commanderies and counties. The princes of the feudal states directly appointed officials with the authority and capacity to represent the princely administration over these units. They did not follow the earlier practice of naming feudal ministers who then ruled the territories in their own names.

At first this was simply a matter of necessity and applicable to certain special areas. By the Warring States era, the boundaries of the feudal states had expanded greatly, either by absorbing small states on their borders or by colonizing wastelands. It was very difficult to continue using the feudal system to guarantee these border territories since the feudal states were unlikely to allow any degree of autonomy to areas for which they had sacrificed many men and gone to great expense either to conquer or to cultivate. They would much prefer to turn these new lands into efficiently managed parts of their own states, on which they could rely for the direct transfer and maintenance of state resources. To prevent the loss of these new lands, they might need to make military preparations to fight off any potential covetous rivals or even engage in constant tit-for-tat warfare until they had overcome all opposition and rebellion. All of this required a strengthening of the organizational level of political control over these newly acquired territories. It was necessary to send trusted and capable persons to take control of both military and political affairs.

The ever-growing political and military confrontations among the feudal states during the Warring States period also brought about the reform that was the institution of commanderies and counties. Pragmatic political practices obliged states to remake their administration. It had to be more rationalized and more centralized, strengthening the direct, effective political control of the center over the periphery. They had to be able to unite, coordinate, and effectively move officials and shuffle resources, both personnel and in kind, within the state. Failure to do so would make it impossible to wage large-scale warfare, whether offensive or defensive.²⁷

An additional factor leading to political reform of the feudal states was that, at the time, some of the rulers of the states had themselves risen from the rank of ministers of the same states. Through political adroitness or by collusion with other ministers, they had jointly seized hold of the state or administered it alone. An example of the former is to be found in the separation of the state of Jin into three parts—Zhao, Wei, and Han—while the latter is exemplified by the state of Qi. The new princes who had grasped power in this way were not going to allow their own ministers to play the same game and therefore would not allow their ministers' political power to become strong enough to threaten them. The history of their own usurpation taught them to examine the loopholes in the original structure, reform the structure, remake the distribution of power, and affirm the authority of the center.

Whether from expediency or careful reflection, or by imitation, or even because unreformed states were simply destroyed, the system of commanderies and counties was gradually adopted as the basic form of organization of all the states. The head of a commandery or county was commissioned by the prince and held power that the prince could revoke at any moment. The criterion for choice was no longer a blood relationship. It might not even be one of political integrity. Ability and expertise counted for more. Altogether, this led the princes to know their men and appoint them wisely for the purposes of administering the polity. The political mandate strengthened the power of the center over the periphery. In the competition between the various systems used in the states during the Spring and Autumn and Warring States periods, the system of commanderies and counties undoubtedly held the upper hand over the feudal system of clan law insofar as it could better guarantee an effective and stable rule for the princes and an effective use of personnel in political, economic, and military competition. The principles of political organizational efficiency and parsimony completely superseded the seemingly milder relationships of clan law.

After the establishment of the Qin Empire, the structure of commanderies and counties was erected in the whole country and became one of the most enduring forms of constitution in China's later history. Yet at the time the Qin united the six states, perhaps out of respect for history or respect for precedent, or owing to the ongoing influence of a political ideology based on the rites of Zhou, many politicians considered or advocated feudalism and once even tried to coerce the First Emperor himself. In the eyes of many politicians, who were neither stupid nor conservative, although the commandery and county system had its merits, it was only an expedient used in the political struggles of the warring states and once a new royal dynasty was established, the orthodox tradition lay in the feudal system of the clan law. Tradition is an unobserved and overwhelming conservative force. As a constitutional practice, feudalism had already faded from the scene, but as an old constitutional ideology, a habit, a tradition, its influence was still enormous, so much so as to virtually rule over the constitutional thought of all political thinkers of the time and become their preferred choice. It was the highly rational Li Si, with his clear awareness of the long-term consequences of feudalism and his logical deduction from the manifest history of the states before his eyes, who perceptively pointed out that feudalism would sooner or later lead to complete chaos in the empire and would certainly result in wars between the states and thus undo the work of unification that the First Emperor had done. To appoint feudal princes of his own blood had been the one thing that the ambitious First Emperor sought to do in making an irrevocable change for the world and in ensuring that everything came from himself and a completely new beginning was made. Li Si's perspicacity and consequentialism led the emperor to decide to divide the empire into thirty-six commanderies.²⁸

Looking back, one might say that the First Emperor and Li Si were perhaps not good politicians, but there is no doubt that they were great politicians. The basic structure of the relationship between the center and the periphery that they created was to last in China for more than two thousand years, an achievement that itself is testimony to their greatness. Yet greatness grows with time and needs to be nourished by achievements. The ancients could not possibly live through such a long period of time! Faced with the fact that the dynasty collapsed with the Second Emperor, at least for a time, (pragmatic) politicians had great difficulty in really believing in the superiority of the structure of commanderies and counties. The political power that emerged after peasant uprisings at the fall of the Qin, whether in Chu or Han, whether led by politicians or by high-ranking generals, for differing reasons chose or were forced to choose the feudal system.²⁹

To consolidate his own power and prevent smoldering wicks from bursting into flame and engulfing the empire in chaos, the pragmatic politician Liu Bang, who became Emperor Gao of the Han, passed laws by which generals who surrendered first to him (i.e., rebel generals!) were made vassal kings if they were successful in battle. He eliminated the best-led and best-equipped armies under the high generals Han Xin, Ying Bu, and Peng Yue. He established an order that “those not of the house of Liu who made themselves kings were to be attacked by the people of the empire.”³⁰ After this, the early Han did reflect on the role that feudalism could play in consolidating central authority and decided that the central government should send out officials in residence to the feudal states who would be the effective rulers of the states. But the cachet of the family name indicates that Liu Bang’s constitutional thought remained stuck in tradition. He also believed that blood relationships were more important than commanderies and counties in maintaining and consolidating the rule of the dynasty.

It takes a major obstacle to make you stop in your tracks! Later there erupted a constitutional war that was to last nearly a half century and respond to the demand to reform the constitution at the practical level. Jia Yi (ca. 200–168 BC), Chao Cuo (d. 154 BC), and Zhufu Yan (d. 126 BC) offered proposals for constitutional reform to the central government in 172, 155, and 127 BC, calling for “reassigning the feudal princes so as to reduce their power,”³¹ “taking commanderies away from feudal kings,”³² and “promulgating gracious commands,”³³ respectively. These were all geared toward a single purpose: to destroy the feudal kings’ political and economic power, to weaken or break the feudal kings’ political and economic grasp of their states, and to replace the imperial power with court-appointed officials. Whatever name was employed, the goal was to completely remove the kings’ authority to rule their apportioned states.

Yet the constitutional experiences of the United States, later, and of ancient China both alert us to the fact that constitutional disputes may not remain at

the level of argument alone (though they may do so), sometimes unavoidably leading to war.³⁴ In comparison with political practice, even the boldest constitutional debate may prove too innocuous. The Han court hoped to use constitutional reform to prevent war, but the reform measures adopted by Chao Cuo led to, or at least advanced, the outbreak of war. The rebels of the seven states in revolt adopted the slogan “cleaning the prince’s latrines,” but, more important, they wanted constitutional reform, a change in the relation of the center and the periphery. The central government beat a hasty retreat and gave in to their demands, having the advocate of war against the barbarians, Chao Cuo, clad in court robes and chopped in half at the waist in public, but peace could not be bought back. Once constitutional talk and political plans both failed to deliver peace, war was the only option. Standing along with the victors in this constitutional reform was not the goddess of law, Athena, but the famous general Zhou Yafu. The winner was not an abstract constitutional value but a very practical, strong, political, economic, and military force.

It was a feat of arms not a battle of wits that defeated the power of local feudal rule and completely dispersed the last signs of superstition the early Han politicians had invested in the feudal system. A centralized government with commanderies and counties was the only possible form of rule. Although this could not bring an end to history or guarantee everlasting peaceful rule, given what ancient China was, only this form of constitution could *better* prevent division, civil war, and separatism provoked by the major flaws besetting the political framework of the state. When Emperor Wu of the Han promulgated Confucianism as the sole philosophical school, he went one step further in providing the central authority with an ideology. The Han adopted the institutions of the Qin and brought about a great reform in the constitution of historical China by comprehensively dealing with the relationship of the center and the periphery.

The basic feature of the system of commanderies and counties lay in that the head of the executive of each level of government was directly appointed in the name of the emperor by the central government and could be removed in the same way at any time. All the power held by the appointees came from the center; posts were not hereditary, nor could they be handed over to others. It was also forbidden to serve in one’s native district and equally forbidden to remain in any one post for a long time. In the Han dynasty, subordinates were chosen and appointed by the mandarin from among local people. Later, some of these had themselves to be selected by the center. In this way, a system was established that more effectively provided checks and balances and mutual reinforcement. Under this system, mandarins had no interest in, and little possibility of, forming a tight network of personal relationships in their jurisdiction during their time in office. To rule effectively, they had to rely on local officials and so needed to make an effort, and had the capacity to do so, to win their support. On the other hand, to control the locality and their subordinates

effectively, from time to time they also had to call on and rely on the authority of the central government. In this way, though they might be far removed from direct supervision by the central government for a long period of time, ruling independently in some remote spot—something that was unavoidable in a large country such as ancient China—nonetheless, no mandarin, provided he was not simultaneously in charge of the troops, the nomination of local officials, or local finances, could easily initiate division or bring about separatism.

Given this state of affairs, dynasty by dynasty, the central government continued to hold examinations, exercise supervision, and even send special observers to reinforce control over the periphery. For instance, in the Han dynasty, the center expedited an inspector of commanderies or a recording inspector of commanderies. Each commandery and county would send officials to supervise the counties and districts. Through these examinations and supervision, the central government was able to reach out to the grassroots with greater facility and guarantee uniformity of state administrative orders, which was a help in maintaining political stability and economic development. Relying on this system, every level of local government was at least carrying out its own form of separation of powers with checks and balances (the executive, military, and supervisory).

The system of commanderies and counties brought about a widespread weakening of the dangers of separatism inherent in the feudal system. This does not mean that this system or any other form of constitutional framework based on central control could guarantee that the risk of separatism could never again arise. It is not possible to rely purely on the law to uphold a system for any length of time without any political vision or practical wisdom. Still less is it possible to create a system that will withstand all forms of manmade or natural disasters such as wars or floods. Later history shows that if the central government lacks experience or ability, or has no long-term vision or is politically inept, or there are internal squabbles for power within the court and influence peddling, or there is insufficient regulation of subordinate, local officials, or there are invasions of peoples over the borders, or even if natural disasters and hunger lead to large-scale peasant uprisings, then the central authorities will be subject to division, separation, and the chaos of war. Human calculations cannot compete with those of heaven. No rule is forever and no rule can be expected to be relied on forever, even if it is a constitutional institution that guarantees stability through rain or shine.³⁵

After the fall of the Han, China was divided many times, but after each division a new political force always arose to restore unity and reestablish the country. Based on lessons learned from the previous dynasty, the new one would move one step further and ensure a better political foundation for the administration of this large state. Even though later eras did not use the terminology of commanderies and counties, yet by drawing together the principles and framework of historical China they reproduced in fact the model of the

commanderies and counties. For this reason, it can be said that “all generations implement the policies and laws of the Qin.”³⁶

Geopolitics and Administrative Divisions

Not only was historical China a vast land, the geography and climate of its various regions were also very diverse. In fact, they are more diverse than those of any other country in the world, including any European or North American country. Thus, the means of production in each area naturally differ. Economic, social, and cultural development is uneven. In a self-sufficient rural economy, it would be difficult to build a large, multiethnic state, and even if this were done it would be exceedingly difficult to maintain it. Separation and divisions could easily occur.³⁷

Furthermore, the vast distances and geographical features of the land have had a lasting influence on the formation and administration of historical China, which goes beyond any given dynasty. “Taking the land of one generation to create the shape of more than a thousand years” is no exaggeration.³⁸ For this reason, “any country must rely on its mountains and rivers.” At least since the Western Zhou, geopolitical considerations had already entered into the field of vision of politicians, thinkers, and military strategists. Typical political strategists (纵横家) such as those of the Warring States era, whether arguing for horizontal (east-west) or vertical (north-south) alliances, or whatever party’s interest they were upholding, did not make suggestions or plans simply along abstract, rational lines. Rather, they paid careful attention to the geographical factors that bore on the political, economic, and military issues of the state they were in and its neighbors. The main reason Qin was able to unite the six states was that geographical Qin “lay at the headwaters of the world under heaven and so controlled the fate of the world under heaven.” “Enclosed on all four sides by mountains and rivers, its geographical features gave it supremacy over the world under heaven.”³⁹ Many of the measures implemented after Qin had united the country, such as extending the Great Wall, repairing roads, or constructing the Lingqu canal, all sought geopolitical advantages and achieved notable geopolitical results.⁴⁰

For this reason, subsequent politicians usually adopt a geopolitical view when assessing the constitution of a large state. This has become the norm in planning and implementing China’s constitution. The various emperors, prime ministers, and other officials have all had to make an effort to familiarize themselves with China’s topography, because this is relevant to how the various levels of political power throughout the country can be handled administratively, and how to get in touch with the barbarians living beyond the frontiers. The respective strengths of the periphery and center, the weight accorded to the borders and the heartland, the apportioning of military forces to the borders, the sources of state taxes, as well as the delimitation of local

administrative boundaries and the various customs and peoples of each area are all important.⁴¹ Moreover, these considerations must, as far as possible, be translated into the design of concrete administrative measures and political policy options. Domestic geopolitical considerations have, therefore, always played an important role in the implementation of China's ancient constitution.⁴² This applies both to the earlier feudal system and the later commanderies and counties, where geopolitical considerations play a role.

For instance, such considerations affect the choice of a site for the capital city. It seems that any state with two or more political, economic, and cultural centers will have to face this question. But many dynasties in historical China, bar those that only sought control of border areas, placed their capitals in the north or northwest of the central plain, at, or close to, the center with its more developed economy and better transportation, so as to organize and regulate the forces of each part of the whole state in response to important political and military concerns. From this center, thanks to secure transportation, there would be access to grain, people, and other material goods. Overall, two important geopolitical considerations may be identified. The first is the possibility of knowing in a timely manner about incursions by the northern nomadic peoples and responding to them. The second is that from the center it was easier to control the east and south by both military and political means. This was aimed at using the geographical site of the capital to guarantee the important political, military, economic, and cultural influence of the central government on the periphery, which was a help in ensuring that state directives were met and political integration achieved. A typical example is provided by the early Han, when the issue was whether to choose a capital within Shaanxi or Luoyang. A geopolitician of the time discussed the issue as follows:

Liu Jing said to Emperor Gao, "The capital should be within the Pass (i.e., in Shaanxi)." The emperor questioned this. The grand ministers of left and right were all from Shandong and most of them supported Luoyang as the capital. "Take Luoyang. In the east there is Chenggao, in the West Mount Yao and Lake Min. It lies south of the Yellow River and faces the Yi and Luo Rivers. Its defences are sufficiently reliable." Marquis Liu said, "Even though Luoyang has these advantages, yet it is small and covers less than several hundred *li*. Its fields are poor and it is surrounded on all four sides by enemies. It is not a place for deploying armies. Whereas the area within the Pass has Mount Yao and the Hangu Pass on the east, and Mount Long and Shu on the west. Its fertile spare land stretches for a thousand *li*. In the south is the plenty of Ba-Shu (=Sichuan), in the north the advantages offered by the pastures of Huyuan. It is enclosed on three sides and so can be defended. It is only open on the east, from where it can control the feudal lords. If the feudal lords are secure, the grains of the empire can be transported

by the Yellow River and Wei River, and sent west for the capital. If the feudal lords rebel, you can go down the river and transport enough supplies with you. This is ‘a golden city of a thousand *li*, a heavenly town.’ The proposal of Liu Jing is correct.” Therefore from that day Emperor Gao decreed the capital should be in the west.⁴³

From this it can be seen that the factors that led Emperor Gao of the Han to choose a city within the Pass rather than Luoyang were a whole series of geographical features with implications for military security and access to economic resources, as well as in-depth strategic considerations. These all combine to support the core geopolitical consideration: providing more effective military control over the newly united but still unstable areas in the east and south of the country.

This in fact became a constant abstract constitutional principle. Even when peripheral areas split the power, it would still remain the overriding concern. The most typical and well-known case is that of the dialogue between Zhuge Liang and Liu Bei at Long Zhong. Zhuge Liang analyzed the natural geographical environment of each part of the whole country and assessed the main forces within the empire, confirming Liu Bei in his invasion of the southwest as part of a long-term military strategy so that he could build a state in what is now Sichuan.⁴⁴ Although after the Eastern Jin, China’s economic center gradually began to move south of the Yangtze, the various dynasties—except those that sought to rule only a small corner of the country—still continued to place the capital in the north of the central plain. This was largely so as to maintain the stability of the northern frontier. This had great significance for effective political control and administration of the whole country, even if it demanded the transportation of a large quantity of resources from south of the Yangtze to the north at great cost. For this reason, dynasties from the central plain or that took control of the plain all placed their capitals along the imperial canal, especially in Beijing, so much so that it is said of the Ming, “the Son of Heaven kept the gate of the state.”

The administrative division of historical China also imbibed geopolitical considerations. It was not simply a separation of power between central and local government. It served as a means of checks and balances on adjoining large administrative zones—even feudal states. It thus weakened the possibility of latent separatism by local governments within the one large state and reinforced the stability and security of the centralized system of government.

One of the typical examples of this is the elimination of feudal territories in the borders. In the early years of the Western Han, kings not of the royal surname were gradually eliminated and Liu Bang set up his own relatives as vassal kings in a desire to protect the dynasty. Very soon, however, the economic power of some of the feudal states in the south grew, posing an economic and

political threat to the centralized structure of the early Han. The Han emperors first used the advice of people such as Jia Yi and Chao Cuo, or carved up the territory of the feudal lords by assigning land to even more persons, thus step by step weakening the strength of the feudal states, or they deliberately looked for the “faults” of the feudal states and took the opportunity to abolish several of them or reduce them in size. After the Rebellion of the Seven States was put down and given that some of the large feudal states had “several dozen towns and territory of a thousand square *li*” and thus posed a threat to the central authorities, Emperor Wu of the Han adopted the suggestion of Zhufu Yan and ordered all the feudal states to enfeoff their relatives while all vassal kingdoms were forced to become feudal states, such that they would no longer have the strength to rebel against their superior. Moreover, they were subject to the commandery and came under the administrative authority of the central government. In this way the problem of the feudal lords that had beset the central government since the foundation of the Han dynasty was resolved.

Administrative divisions are drawn up so as to make the task of administration easier, but it is not so clear how their merits can be measured. For instance, division of feudal states into small parcels increases the levels of administration, and the more levels there are, the more certain it is that the central government will encounter the problem that “the tip of the arrow from the strongest bow will, in the end, be unable to pierce the finest silk of the state of Lu.” Decrees and supervision from the center will have difficulty in reaching down to the lowest echelons. A proliferation of administrative divisions will give rise to administrative areas that are too small. A small local government may be unable to manage effectively, and on its own, problems that pertain to it. If the higher level of government is obliged to use a uniform policy for all, then this implies a loss of the significance of having a lower level of government. If local governments are allowed to go their own way and cooperate among themselves, then this may in some way lead to an increased risk of division. Even more important, an effective hierarchical administration also requires relatively stable layers and areas of administrative responsibility. This is conducive to local officials adopting the best policies for their local situation and to the central administration in its supervisory role. When there are too many layers or areas of administration, then it is easy to decline all responsibility. This shows that there should be an organized separation of powers.⁴⁵ Even fixed administrative boundaries may yet lead to hidden and unpredictable dangers. For example, it is quite possible that as the economy develops, the center of a country may shift, or the population may move, or some given area may produce an especially important commodity, leading to an increase in the economic might of a given area such that it poses a threat to the central government. In a particular political-social environment, it is highly possible that ambitious political-military leaders may emerge, as happened with the emergence of the state of Wu in the early Han. Once something like this

happens, the vast distances and challenging topography of a large state make defense difficult. Conditions are ripe in the periphery for separatism of a sort that is largely beyond the scope of an ancient military-political power to overcome or even avoid.

This helps to explain the constitutional significance of two basic administrative principles of historical China—"mountains and rivers are convenient" and "the teeth of the dog match each other."⁴⁶ The former principle underlines that administrative boundaries should respect geophysical areas since natural geographical units are a strong influence in forming a common social awareness within their domain and determining the economic, social, and cultural assets of the inhabitants. Thus, respect for the natural areas delimited by natural features helps to prevent or avoid any clash of interest between people of different areas and thus assists in the effective government of each area. The latter principle is a deliberate attempt to use the drawing of administrative boundaries as a means of overcoming the implications of the former principle, that is, the use of local geographical advantages to induce separatism. This latter principle takes into account the formative force of local political, economic, and cultural features, and reacts so as to uphold the political unity and effective administration of the whole country. This is a necessary and probably requisite measure that is effective and of constitutional significance, one that a traditional large agricultural state, especially one that has complex geographical features, must take.

The earliest example of the dog's teeth principle may be traced back to the Qin dynasty. To enable the Qin army to effectively control the Lingnan area, which was the last area to be conquered, the farthest from the political core of the Qin court and the most inaccessible, Qin placed Guiyang County (now Lian County of Guangdong Province) in the south of Lingnan under the Changsha Commandery (now Hunan Province), and Tan city (now within the limits of Huaihua, Hunan Province) in the north of Lingnan under the Xiang Commandery (now Guangxi Province). At first glance, this type of administrative division without any regard for natural geography seems extremely foolish. But in a place where mistakes should certainly not appear, either it is an incomprehensible mistake or—the best explanation—it is not a mistake and may even reflect very wise administrative design, namely, that this administrative interlocking is undertaken to prevent the rise or formation of any geographical separatism within Lingnan. In fact, even a hundred years after the demise of the Qin, when Emperor Wu of the Han began to pacify the state of Southern Yue, which had declared independence at the end of the Qin, he was able to succeed in part because he relied on this seemingly stupid administrative measure with regard to Tan city such that the Han army entered Xiang Commandery in Lingnan very rapidly and accomplished unification of the whole country under the Han.⁴⁷

Geopolitical considerations apply not only to the drawing of administrative boundaries in mountainous regions but also in the plain, and were used not



MAP 1. Administrative regions under the Yuan dynasty

only for the commanderies and counties but also, in the Han, for the feudal states. They were applied when the first Han emperor was seeking to control the minority peoples on the borders, and also were used by the various rulers of the central plain descended from the border peoples to prevent the dominance of the Han Chinese. (This will be discussed in the next section.) In fact, from the point of view of logic and even more from empirical evidence, more rulers of the central plain who came from border areas were weak than strong in comparison with rulers from the Han people and thus, in the interests of maintaining unity, gave—indeed had to give—more attention to geopolitical considerations when they drew up administrative boundaries.

The best example is that of the administrative divisions established under the Yuan dynasty. The Yuan dynasty was established by the Mongols, who were administratively much weaker than the later Manchu, who set up the Qing dynasty. According to Zhou Zhenhe, the Yuan provinces were not drawn up in the way that the Han, Tang, and Song had set up their divisions and showed no respect at all for the important mountains and rivers that had been used in the past: the Qinling mountains, the Huai River, the Nanling mountains, the Taihang mountains. None of the Yuan provinces formed one unit either geographically or culturally. Shaanxi Province crossed the Qinling mountain range and reached into the Han plain. Huguang Province included Hunan and Hubei and stretched across the Nanling mountain range as far as

Guangxi. Jiangnan Province also crossed the Nanling range into Guangdong. Henan-Jiangbei Province crossed both the Yellow River and the Huai River from north to south. Zhongshu Province lay both east and west of the Taihang mountains and included the three very different terrains of the Shanxi plateau, the north China plain, and the hilly region of Shandong. Jiang-Zhe Province ran from the Jiangnan plain down into the mountains of Fujian. Sichuan Province was the only area that resembled a traditional four-sided state with natural boundaries, but since the northern part of the central Han area now belonged to Shaanxi, the Qinling mountains no longer formed its natural defense and therefore Sichuan could not benefit from its geographical advantages.⁴⁸

This strategy is to be seen not only on the macro scale but also at the micro level. It applies to both domestic and foreign affairs. One small example can suffice as an illustration. Between Guangdong and Fujian provinces, at the intersection of the East China Sea and the South China Sea, lies the small island of Nan'ao (南澳島), 130 square kilometers in size. Control of the maritime area offshore from Guangdong and Fujian was of great strategic significance in history. Yet the administrative appurtenance of this island constantly shifted. Under the Qin and Han, it belonged to Southern Yue (today's Guangdong). But from the Liang dynasty (502–57) and through the Tang and Song (618–1279), Nan'ao was always placed under Fujian. Under the Qing (1644–1911), Nan'ao belonged to both Fujian and Guangdong simultaneously. Indeed, even the army camps on the island were split, that in the north belonging to Fujian, that in the south to Guangdong. The administrative division cut the island into two halves, even bisecting the military.

We can understand these difficulties only from a geopolitical angle. Although it would be difficult to prove, it seems that the shifts in jurisdiction in the early years may well have had to do with the island's remoteness from the political center in the north and the relative independence of Fujian and Guangdong. Although the Qin controlled Southern Yue, it as yet exercised no real power there.⁴⁹ Hence, from a political-military standpoint, Qin had good reason to leave Nan'ao under Southern Yue, when necessary expeditions could be mounted from Southern Yue against Fujian and Guangdong. By the sixth century, China's political, economic, and cultural center began to move east. At that time, Zhejiang and Fujian came under central control even more than Guangdong. Thus, Nan'ao became a strategic maritime point for exercising military and political control over Guangdong. The special administrative status of Nan'ao under the Qing, especially in military terms, locked Fujian and Guangdong closely together on the domestic front, though perhaps the more important factor is that of foreign affairs since the armies of both provinces were obliged to work, along with the islanders, in defending a place that was both easy to attack and difficult to defend since it was from the southeastern coastal region that ever-growing threats began to be made.

The real purpose of ensuring that administrative boundaries interlock is to establish checks and balances. However, geography or natural features or administrative regions themselves will not automatically lead to checks and balances. Therefore, the crucial point of geopolitics is not in the geography but in the politics. That is, in reflecting on, analyzing, and responding to political issues, one should never lose sight of geographic space or other geographical features that may be relevant. Furthermore, in the later history of China these geopolitical considerations always take into account the central government as their premise. It is only in such a system that administrative boundaries established according to geopolitical considerations may strengthen or weaken any given political possibility. Should the administrative or military heads of any two neighboring districts be father and son, friends, fellow townsmen, or teacher and student, and if they value their private relationship more than their loyalty due to the state or its representative—the throne or the emperor—the interlocking of administrative divisions will be meaningless. On Nan'ao island, the question is not whether it was necessary or sufficient to have two separate military camps. Rather, the issue was to have two military camps that were not dependent on each other.

Therefore, given the basic system of a central authority, the interlocking of administrative boundaries that remain firm over a long period results in the system itself being able to survive for a very long time. The system is intended not for one particular person, but for any superior official with local jurisdiction. For anywhere that harbors a latent political risk, the central government does not need to adjust administrative boundaries; it simply needs to supply the appropriate officials for the posts available, or at least to renew the military forces in adjoining districts and to enhance the supremacy of real political military power.

Thus, Nan'ao island is an example of an unseen power where boundaries interlock. In fact, in historical China, such forms of interlocking were common, as military jurisdictions and executive jurisdictions were completely separate systems but there was interlocking rather than overlap at the local level. This is what formed the mutual checks and balances, like having two forms of leadership.⁵⁰ In particular cases, administrative boundaries were altered (either in emergencies or on a long-term basis). In some places or areas, either as a general rule or in specific cases, the same official would hold both administrative and military responsibility. It was even such that the interlocking had economic significance, which was used to correct the balance of economic and political power between administrative regions so that each would balance and correct the other, to prevent the political and cultural elite of any district from getting politically jealous. Furthermore, the balance of economic power of the localities would be of help in ensuring the political balance of all places within the state.⁵¹ For this reason, at many times, historical China witnessed many instances of administrative boundaries that seemed, or even were, inappropriate from the perspective of economic construction.⁵²

The constitutional importance of geopolitical considerations in the drawing up of administrative boundaries for historical China was such that under the concentration of power at the center, faced with the concrete complexities of geography, topography, economics, society, and culture of *this particular* large agricultural state, effective political issues for the unity of China were transformed into technical issues of administrative management. One only has to compare a map of the topography of America or Europe with that of China and add to this the past or even present administrative map of China and that of America or the map of African states, to realize the particularity of the administrative divisions of China.

Administration of the Frontiers and Integration of Minority Nationality Areas

One major difference between ancient and modern states was that the former had frontier areas and lacked clear boundaries.⁵³ The frontier is an area. It is a geographic notion and yet it has more than geographic significance. It does not merely imply that a given district is far removed from the center of state governance, since it also has an implicit political, economic, and cultural significance. A frontier is at the limit of the reach of a state's political control and administration. The strength that comes from the sovereign—in ancient China this was the imperial court or the emperor who represented that court—has already been considerably weakened by the time it reaches the frontier. The spatial distance of political administration and the various levels of administration bring it about that the influence of the political center is unclear on the frontier in the face of the challenges and competition that arise from the various political and nonpolitical factors (though it may still have some measure of political impact). The competitor may be a small local political power, but it may very probably be another large-scale political power that wields sufficient political and military power and likewise also controls the same broad frontier region. If it is the latter, then behind the political competition, even military struggle, there is often some competition that pertains to the economy, culture, or even civilization, such as the competition between an agricultural and a pastoral civilization. A frontier is, then, often an area in which two or more political forces struggle to define their administrative control. It may belong to either of them, but neither has yet attained a monopoly of political control over this area.

Historical China has always had such frontier areas surrounding its central plain. These areas constitute a threat to the civilization of the central plain. Yet they can also be areas into which the civilization of the central plain might spread. Therefore, the outstanding politicians and thinkers of historical China through the centuries in their reflections on China never thought just of the central plain but would always (or even always had to) pay attention to the frontier

areas and their peoples, considering the conflicts and exchanges between the frontier peoples and those of the central plain. From the Western Zhou onward, there existed the highly abstract notion of “governing the state (治国)” and “bringing peace to the world under heaven (平天下).” In fact, even in the Spring and Autumn era, the geographical scope of “China” as such was very restricted, normally to the central plain, and excluding areas that at the time still constituted part of the world under heaven such as Qin, Chu, Wu, and Yue.

The idea of “bringing peace to the world under heaven” naturally cannot avoid a discussion of military questions.⁵⁴ But of still greater importance is the question of long-term political governance, as, for example, was mentioned previously with reference to Alexander the Great and his state of Macedonia. Therefore, in order to understand the geographical construction of the border areas of historical China, one must first understand the special local administrative methods adopted on a long-term basis by the dynasties throughout history, including those founded by peoples from the border areas, for the frontier areas. These administrative methods for the frontier, although different from those generally applied in the central plain, nonetheless served the same function. They not only protected and upheld the dynasty that held power in the center but also, by their application over time, led to many of the peoples in the frontier regions gradually becoming assimilated into the Chinese nation. The original frontier thus could cease to be the frontier. And precisely because of this, administrative measures that may at first glance seem to be rather remote, subordinate, irregular, and local were in fact part of the constitution of the central authority of ancient China. What is related to the administration of the border areas of historical China also has to do with the constitutional integration of the frontier areas. Therefore, in this book, “the state” and “the world under heaven” are used merely to understand a notional framework of historical China and should not be read as clearly defined areas.⁵⁵

The border areas of ancient China were vast, and clearly each had its own geographical conditions. Through the centuries, the state power of the dynasties varied in strength, and the opponents this state power competed with in the frontier regions also varied. The most urgent questions of administration of the frontiers differed over time. Likewise, there were many changes and evolutions in the administrative framework by which each dynasty responded to the administration of the frontiers. Students of the administrative framework of historical China with regard to the frontiers have many different ideas, and all are right.⁵⁶ Based on the level of the central government’s trust, control, or integration of its frontier areas, one may broadly define three abstract categories of frontier.

The first is where the central government has already established effective control over the frontier and exercises a semi-military control to manage the area. In the various commanderies on the northern border during the Han dynasty, there was a subordinate official of the military-political office,

an inspector whose real task was in fact to administer the border by a kind of military rule that brought unity and strength to the defense against the Xiongnu. At the same time, fixed regulations were set up to administer the region, creating all the necessary conditions for a real commandery. The Han also set up a military official under the military commander of the capital who was specifically responsible for dealing with minority peoples who surrendered to the Han court. This official gradually took on the task of administering the minority peoples and the “special area” that was on a different level from the commanderies. There was also a military administrative district under the Han and Tang called the protectorate-general. The western protectorate-general under the Han was on the same level as a commandery, but its subordinate divisions were not the ordinary counties but rather several tens of small states in the western region under military supervision. In the early years of the Tang, a Pacifying the West big protectorate-general was set up to the south of Tianshan and the northern protectorate-general to the north. The southern protectorate-general used military means to supervise the various small “states” south of Tianshan, whereas in the north counties were established that were the same as those in the rest of China. The Tang also extended the protectorate-general system to other border areas. In Liaodong and Korea, it set up the Pacifying the East protectorate-general; in the north, it set up the Shan Yu and Pacifying the North large protectorate-general. In the center and north of what is now Vietnam, it set up the Pacifying the South (Annam) middle protectorate-general, and in the southwest, the Upholding Tranquility protectorate-general. The Shan Yu, Pacifying the North, and Pacifying the South protectorates-general all had counties under them, much like the districts of the central plain.⁵⁷

The second level is those regions where minority peoples govern and that have a comparatively closer economic and cultural relationship with the central government. Some scholars describe this kind as being either *fan* (藩, dominions serving as a fence around the central area) or *shu* (屬, dominions dependent on the central government).⁵⁸ Of these two, the *fan* areas had a closer relationship to the central government, and the *shu* a more distant one. But over the long course of history the definitions of *fan* and *shu* are not so fixed; they are even quite unstable. In the Qing dynasty, the *fan* were the areas under the Superintendence Office, such as Mongolia, Xinjiang, and Tibet. In the early years of the Qing, the government’s control over these areas was not the same as its control over the interior, but by modern times these areas had become part of China’s territory. *Shu* refers to those countries such as Korea, Annam, and Burma that maintained tributary relationships with the dynasties of the central plain throughout history. Before the modern era at least some of these dependent states, at certain times, enjoyed very close relationships with the central government. Only after the coming of the modern era and as a result of many changes in international forces did they become independent nation-states.

The third level is those bordering national political powers that did not enter into a vassal or tributary relationship with the dynasty of the central plain. Historically, they are often referred to as “enemy” countries, but the meaning is not that of opposition, nor is there any negative sense of enmity. Rather, they are counterforces or matching forces. According to the proper sense of the term these political authorities had no relationship with the central political authorities of historical China at the constitutional level.⁵⁹ If they did, it was more in the sense of diplomatic relations today. Strictly speaking, they cannot be considered as frontier areas to the central government.

But the above discussion is simply an analysis at the conceptual level. Over the long course of history, as many powers rose and fell in the extended continental mass of East Asia, there was never a time when some dynasty or political power always had the upper hand. Therefore, the frontiers of each dynasty or political power were always subject to change. This holds not just for once-formidable “enemy states” such as the Xiongnu (匈奴), Tujue (突厥),⁶⁰ or Western Qiang (西羌), which when the power of the central plain was sufficiently strong were either partially or wholly subject to it and so became *fan* or *shu* of China. Sometimes the central government set up what resembles militarily supervised special administrative zones over territory that came under the jurisdiction or control of these powers, making them the frontiers of the central plain.⁶¹ There were even some “enemy states” that for a time became very strong, such as Nanshao in Yunnan and its successor state of Da Li. This was conquered in the Yuan dynasty and by the Ming and Qing had become a province under effective direct rule from the central government.

But history does not all go in one direction. At specific times, very strong border powers did arise, forcing the dynasty in the central plain, not just temporarily but even for long periods, to use many methods to bring these enemy states to vassalage, even to the extent of ceding territory to them. Frontier areas that were originally under the effective control of the central dynasty, and even in some cases that had already been divided into commanderies and counties or departments and prefectures and brought wholly under the central administrative body, would be newly conquered by the bordering powers and occupied, or the central government would be forced to cede them to the bordering power, as with the Sixteen Prefectures of Yan and Yun. From this they became “old states” of the dynasties of the central plain or the dynasties that were content to rule over only part of China.

Besides using military districts to control the frontier area, the policy adopted by the central government of historical China in responding to the border people and their political power was basically that of “carrot and stick.”⁶² The “stick” was the use of military force to hold them down; the “carrot” was to entice them with the promise of economic benefits. It was a policy that was both hard and soft. But in practice the policy was neither unyielding nor fixed; it took account of local customs following the injunction of the *Record of*

Rites: “Improve their education; do not alter their customs; smooth out their politics; do not change their habits.”⁶³ One could say that this was a case of local autonomy.

The earliest way of doing things was to establish a special administrative body in a given border area and to take the seat of the chief of each tribe as the basis for establishing departments and counties, allowing the local people’s leader to establish a hereditary government. The classic example is to be found in the carrot-and-stick prefectures and departments set up by the Tang dynasty in the northwest.⁶⁴ When the Yuan dynasty was ruling the minority areas of the southwest it set up a similar system of headmen, so that each of the border tribes maintained, or basically maintained, its original socio-economic system, method of organization, administrative bodies, religious faith, customs, and cultural traditions. The leader of each tribe was recognized as the political uniting force for that area and was granted the right, if he wished, to hereditary succession to the post of headman, becoming a support and even replacement for the Yuan court in ruling over the border areas. Apart from political adherence to the central imperial dynasty, economically speaking, there was a fixed tax, corvée, and fealty to the court, but all other affairs were left to the autonomous administration of the local headman.⁶⁵

Although the methods may differ, taken in the abstract they were created as a substitute in cases where the central government of the central plain, owing to political, financial, and cultural constraints, was unable to employ the normal administrative systems in ruling over the border areas. For this reason, the central government ruled over, but did not administer, the border peoples and tribal districts, or rather, it governed them in name only. The advantage of this was that, while recognizing the difference between the Han Chinese and the barbarians as a basis, it first created and upheld unity and peace over a broad sweep of the border area. “One country, two systems,” or even many systems, was beneficial not only to the political and economic development of the center and the frontier but also to the intercourse between peoples, and created the conditions for their future integration.

Yet the ruling powers through the generations were very much aware of the problems that this system of rule left behind, or could give rise to. First, the central government’s allowing hereditary succession in the frontier districts meant that the political loyalty of the upper classes was not guaranteed. Should the control exercised by the center weaken or external forces intervene or increase, then the subordinates might become too powerful and even head toward separatism. This would affect not just the borders but also the interior. Second, even if the hereditary rulers of the frontiers maintained political loyalty to the central government, the system itself entrenched the political, economic, and social authority of the leading aristocracy. There was a lack of free movement in society, such that the lower echelons, in particular, gained nothing from the arrangement. From this it follows, third, that this was not

only at variance with the basic constitutional tradition of historical China, which stressed rule by meritocracy, but also unhelpful for the constitutional integration of the feudal officials of the border area into a multinational state.

Considering the deficiencies of the governance of the border areas, when all the various conditions are taken into account and added up, or even simply to meet the urgent exigencies of some major event affecting the government, central governments through the years would shift from a policy of ruling but not administering to one of indirect rule, or even one using the normal administrative apparatus of direct rule.

A classic example of this is the headman system set up by the Yuan in the southwest. The Yuan dynasty itself was founded by a border people who set up a central authority in the central plain. Their ruling classes had a severe lack of capable administrators, but at the same time they did not trust the Han Chinese as officials, especially on the southwestern border. Hence, the situation differed from the prefectures and departments set up according to the Tang policy of "carrot and stick." In the area farthest from the political center of the dynasty, the southwest, the Yuan established autonomous headmen. This was not only a concession to the leaders of the southwestern tribes but also a measure to hold down the Han.

For this reason, after the Yuan, the Ming partially continued the headman system. On the basis of the size of territory under each hereditary headman, the Ming set up three kinds of nonmilitary officials: barbarian prefect, barbarian department magistrate, and barbarian county magistrate. This setup went some way toward bringing the barbarian officials into the officialdom of the Ming government. It weakened their local character and strengthened their administrative nature. It led to the later policy, enacted in Yunnan and Guizhou, of "moving barbarians into the normal track," that is, changing the hereditary barbarian officials into officials sent out on a rotating basis by the court, and thus strengthened control over the southwestern border.

The policy of moving barbarians into the normal track was the first major constitutional revolution undertaken by the center to resolve the question of administering the southwestern frontier. But because of pressure from Mongolia in the north of China, the Ming government was unable to use a similar policy on a large scale outside the southwest. Indeed, the policy was largely directed against the important barbarian officials; lesser officials found their power actually enhanced.⁶⁶

Another border people that entered the central plain and established a dynasty, the Qing, continued and greatly expanded the shifts that the Ming had begun, reaching a peak under the Yongzheng Emperor, and linked to a series of political, economic, and social changes.⁶⁷ To speed up the policy of moving the barbarians into the normal track, the Qing government even launched several wars against the minority peoples of Yunnan, yet even up to the 1911 Revolution, the barbarian officialdom in many localities had still not ended.⁶⁸

This was not only because the capacity of the central government was limited, but also because the implementation of the policy of moving the barbarians into the normal track caused the Qing government to realize that there were vast differences in the natural geography and human culture of the various areas in China's southwest, and that to impose a uniform policy was simply inappropriate.⁶⁹

Conclusion

Although at times there was disorder, or rump states content to rule over a portion of the country, if the standard is not set just by recognition of the central dynasty but also by the expansion and, in particular, the long-term stability of the borders, then the borders of historical China were as a whole expanding and secure. In this respect, the relations between the center and the periphery for historical China were successful from a constitutional point of view. The basic structure and implementation of governance of the frontiers of historical China and integration of the localities were for the most part effective. After the Tang, the main reason for the expansion of the frontiers of historical China was the integration of peoples brought about by the Mongolian and Jurchen peoples from the north establishing dynasties in the central plain, leading to a reconstruction of China's borders. But the various regimes founded in the central plain by the northern peoples, as well as the Yuan dynasty, and particularly the Qing, in their political administration of the whole country basically continued the way of thinking and constitutional arrangement of the centralized authority of the Qin and the Han.

This shows that there is good reason to assert that "the hundred dynasties all implemented the institutions and laws of the Qin." This cannot be explained away as a result of the ambition of emperors through the years to "make the world under heaven their home," or as a thousand-year folly of countless Chinese people who lacked the creativity or imagination to produce some other system. The simplest explanation is probably that this system was the best practicable choice available to ancient agricultural China. There was no competitor or replacement. Furthermore, so long as the central government made no major errors of policy, and provided that all other conditions were generally stable—including no climatic or natural disasters or external political forces—then, given the agricultural economy as a foundation, the political framework of this central authority and the administrative organization that corresponded to it, from a theoretical point of view, was possible and, from a practical point of view, was indeed so. Although not continuously, for a comparatively long period this framework supplied ancient China with peace based on unity and brought it about that, insofar as the technology of the time permitted, a large agricultural state was able to flourish and become strong.

The central authority of historical China was always seeking readjustment and improvement and went through changes of terminology—commanderies, departments, circuits, and provinces—as well as changes to the permanence or temporary nature of administrative boundaries, and also microscopic adjustments to the separation and reunification of the military, administrative, supervisory, and fiscal levels from the central government to those of local government. Whatever the case, whether or not there were such shifts and adjustments, one thing that stands out as a political phenomenon is that ever since the Northern Song reestablished and perfected the central powerhouse, ancient China never again saw an internal revolt caused by separation of power at the local level, nor was there any separation that led to a dynasty being replaced. The only thing that happened was that border people invaded (setting up the Yuan and the Qing) or there was other social unrest (such as agricultural riots at the end of the Yuan and of the Ming), which led to a change of dynasty. Whether this proves that the system of central authority was effective and complete is worth asking.

A classic proof comes from the Qing, a dynasty set up to rule China by a border people. But even up to the end of the Qing, external threats and internal chaos were very, very serious. The Han Chinese armies that pacified the Taiping Revolt were private armies—the Xiang and Huai armies—that grabbed a lot of power both in the center and on the periphery. But before the 1911 Revolution the central government of the Qing could still exert effective control over the peripheries. The rebels sought to draw Han Chinese officials to their side with calls for a “greater sense of the nation” illustrated by slogans such as “expel the Tartars.”⁷⁰ But the high officials of Han nationality on the frontiers did not take this opportunity to engage in separatism for the areas under their control. This was not simply out of blind loyalty to the Qing royal family but, rather, probably because they had a view that went beyond narrow Manchu vassalage versus Han nationalism. They were politically and personally loyal to the constitutional framework of the central authority of a civilization that was both ancient and new. At least to some extent, this may be attributable to a traditional constitutional ideology with which they had grown up.

Some of the tributary nations of traditional China, such as Korea, Annam, and Burma, became separate and independent states in modern times. Other tributary states like the Ryuku Islands came and remain under Japanese control. But this cannot, at least not fully, be attributed to errors of policy or application on the part of the Qing court with regard to frontier administration. Much more fundamental is the fact that, from the nineteenth century onward, China was faced with a great revolution the likes of which had not been seen for millennia. The rise of powerful states brought to the countries and political authorities of East Asia a marked change. Heading a large agricultural state, the Qing government was at first powerless, and then incapable, to respond effectively to this great global revolution, which posed a challenge to historical

China's constitution.⁷¹ In the face of the challenge, the late Qing court lost not only tributary nations but also a great part of its own territory, such as Taiwan, and finally rule over China itself. But to attribute all this to the system of border administration or even to elevate it to the lack of the all-around panacea of a democratic Constitution is to go too far.

Reflecting on the victory of the commandery-county system over the feudal system can also help us understand the constitutional revolutions China has had to face in modern times. The victory of the Qin-Han commandery-county system does not mean that the feudal system of the Western Zhou was a complete failure, still less a mistake from the beginning, which should never have happened. The incessant wars between the princely states in the Spring and Autumn and Warring States eras do indeed show that the feudal system was no longer able to create the peace, stability, and order that the people hoped for in this land at that time. It implies that they needed to create a new constitutional format.

The Western Zhou was indeed a peak moment in China's ancient society. Its "establishing the many feudal princes and dividing up the land for the people" not only was a case of constitutional innovation by which "there was a new foundation for an ancient nation" but also brought about integration of the various peoples and tribes in the areas under Zhou rule. "When looked at in the light of the Way" (*Zhuangzi: Autumn Floods*), the feudal system of the Western Zhou represents the political elite of the central plain in those times, which beside the use of military might, established political unity—"to even their politics"—and was the earliest attempt to provide a constitution for a vast state. The Western Zhou feudal system was the best form of concentration of power that was practically possible at the time, just as today the European Union is the best form of centralized authority that can be achieved, even if it is not the ideal form of centralized power for European states.

Even though the Western Zhou constitution finally broke apart, this does not mean that it failed. The Western Zhou left behind a great agricultural state. The rites of Zhou provided a constitutional template for this large agricultural state and facilitated the implementation of a constitution for a large state. Even the wanderings of the political elite among the various states during the Spring and Autumn and Warring States eras were exchanges on the political, economic, and cultural levels oriented to the whole country. Many aberrant forms of Chinese characters as well as ways of writing were to a large extent unified; speech was improved in the exchanges of the political elite, producing a "refined language." Without these foundations, the unification of the script under the Qin would not have been possible. Likewise, the Qin court's "officials as teachers" and "law for teaching" (*Hanfeizi: Five Vermin*) would have been impossible.

Hence, the criterion for assessing the system of historical China is not whether it was always so and hence is "universal," nor whether it matches

some theory or other, nor whether it meets some unsubstantiated but beautiful prospective ideal, but whether, at a given historical time and within the various economic and social constraints of the time, it fully utilized all the resources that it could use and imagine to produce the best possible political and social conditions for people's lives and the emergence and growth of a large state. And, moreover, *only it could do this!*

A realizable constitution for a great state is an important condition for its emergence and growth, but it is not the only, or a sufficient, condition for this to occur. A system, even a constitution, is not God. In this world, there is indeed no system that, relying on its own resources alone, can suffice to ensure the long-term peaceful existence of a state. For this to happen, in addition to the system, there must be the support of economic, social, and cultural factors, including prudence on the part of political rulers as well as wise and timely responses to important questions of government. At the least, one should not commit too many great errors and one may even need assistance from heaven: "a fair breeze and timely rain."

Since this is so, we may conclude this chapter with a purely academic question: why does contemporary academic discussion of China's constitution lack any discussion of China's geopolitical considerations and practicalities beyond a reference to feudalism and commanderies and counties? Given that this thread of thought has had a long-lasting and profound influence on historical China's constitution and that, in the world of Chinese historical studies, relevant theories and reflections, publications, and writings have a long history that still have considerable influence today, why have they not influenced studies of the constitution?⁷² This in itself is an issue that deserves consideration in the academic world. The main reason could be that the leading contemporary language and models used in talking about China's constitution come from a European and North American tradition. Although there were some—albeit superficial from the point of view of ancient China—geopolitical analyses and discussions in ancient Greece and Rome,⁷³ because of the geographical features of Europe and North America as well as the nature of those countries, plus the fact that the international system dominated by Europe and North America has produced geopolitical studies at an international level, it is no longer necessary to reflect on the geopolitics within a state at a constitutional level. This is, of course, merely a hypothesis or something said in a hurry, but it does point out that theories about the constitution of contemporary China could draw on the experience of historical China, even if to do so may first be a challenge to the scholarly self-confidence of contemporary China's legal scholars.