

represents a record of arable land during the period of upheaval towards the end of the Yüan dynasty when there were frequent outbreaks of peasant wars.

The Establishment of the Inspector-General of Chinese Imperial
Maritime Customs in Late Ch'ing China

by Takashi OKAMOTO

The process of the establishment of the inspector-general began with two demands from Great Britain, which appeared in Rule X of the "Agreement Containing Rules of Trade" signed on Nov. 8, 1858. They were the entrusting the Chinese authorities with the selection of foreign inspectors and the extension of the foreign inspectorate system to all treaty ports. The British authorities intended to avoid criticism and responsibilities, which the consular interference in the Chinese customs administration might cause, and hoped to reduce foreign merchants' complaints concerning the enforcement of this system at Shanghai alone.

Kuei-liang 桂良 and Ho Kuei-ching 何桂清, favoring peace during the Arrow War, stressed the importance of customs revenue on the following grounds: (1) resources of military expenses for suppression of such rebellions as the Taipings; (2) maintenance of the interest in self-strengthening; (3) resources for indemnification to Great Britain and France. (3) is the most important among them. This opinion, necessarily bringing about foreign intervention in the customs revenue, must have resulted in the breakdown of the Ch'ing traditional customs administration and the extension of the foreign inspectorate system. Furthermore, they regarded the system as useful for the control of foreigners. They accepted the British demands on account of the above reasons. But as Ch'ing mandarins regarded foreign inspectors as "private secretaries 幕友," Ho Kuei-Ch'ing, imperial commissioner at Shanghai in charge of foreign affairs, could not intervene in managing foreign personnel employed in the customs. Consequently, it was necessary to establish an exclusive official charged with these duties, inspector-general of cus-

toms. Ho appointed H. N. Lay in 1859.

The Inspectorate-general of customs came under the immediate control of the Tsungli Yamen 總理衙門 in 1861. A central organization for foreign affairs was established and Maritime Customs were designated as authorized organs for the payment of indemnities in the Peking Convention. On the other hand, leaders of the Tsungli Yamen hoped that the inspector-general would act as a "confidential" advisor to them on foreign affairs in general. The British Minister also considered their idea useful. R. Hart, who succeeded Lay, played this part vigorously. His behavior formed various features of the inspector-generalship in late Ch'ing China.

La théorie d'option rédhibitoire et son application
en droit musulman malékite

par Hiroyuki YANAGIHASHI

Les opinions légales de Malik b. Anas (m. 179/795) furent modifiées par ses adeptes en Espagne et en Afrique du Nord selon les situations sociales, au Maroc à partir du XV^e siècle en particulier, où l'on s'attachait aux opinions minoritaires lorsque les situations sociales étaient en accord avec elles. Ces opinions minoritaires s'appellent '*amal*'. Le développement de la théorie d'option rédhibitoire (*Khiyār al-'ayb*) en fournit une bonne illustration.

Les points sur lesquels les opinions des juristes sont modifiées sont les suivants.

(1) Selon l'opinion généralement reçue, on divise le vice en trois groupes, mais en Espagne certains juristes le divise en deux groupes. '*Amal* de Fès adopte également cette classification.

(2) Si l'acheteur découvre un vice moyen dans la chose acquise immobilière, il ne peut opter que pour réclamer la différence suivant l'opinion admise, tandis que l' '*Amal* de Fès permet au vendeur de résoudre la vente si l'acheteur veut réclamer la différence.

(3) Quelques juristes de Médine avant Mālik b. Anas sont d'avis que le vendeur n'est responsable du vice que s'il s'en apercevait au