

The spirits of law, rhetoric and logic in Tang Dynasty verdict words: Some investigation focus on the phylum of the criminal verdict words in “Wen Yuan Ying Hua”

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Abstract

Though most of Tang Dynasty verdict words are not true judicial judgments, they are the crystals of ancient Chinese legal wisdoms. In general, Tang Dynasty verdict words are written by the form of parallel prose, so there are elegant form and beautiful rhetoric, and it is easy for people to have an impression of “showy without real worth”, and some people think of it “a kind of poetry with vainglorious form and fictitious story”. Is it really so? The answer is no. We can't take some elegant verdict words this way. Besides, under the splendid surface, an elegant verdict word not only has an affluent idea, but also pays great attention to use the law correctly, which has relation to the standards used to judge a certain kind of verdict word is good or bad. We know that these standards can be summarized “excellence in both the content and the form,” but this conclusion is so abstract that people have difficulty in understanding it. According to the saying of Du You's “Tong Dian,” if we call a article an elegant verdict word, it must satisfy the four necessities: (1) Literary grace strikings; (2) following the law; (3) conforming to Confucianism; (4) not going against the logos. These requirements have formed four important aspects of an elegant verdict word, they are: the Confucianism, law, rhetoric and logic. Each of them plays a different role in a verdict word,

which is similar to the principle of making a dose of Chinese medicine. Usually people think that in making a dose of Chinese medicine a good doctor must consider four elemental medicine, which are “king” medicine, “minister” medicine, “assistant” medicine and “emissary” medicine. Similarly, if people want to write a good article, he must deal with the relations among the Confucianism, law, rhetoric and logic. Firstly, his article must have correct claims and accordance to Confucianism. Secondly, it must follow the law. Thirdly, it must be strong argumentation. Fourthly, it must bring rich and bright colors to the form. Only these four elements coordinate in proportion can a verdict word be called an elegant article. The verdict words in “Wen Yuan Ying Hua” conform to the principles above-mentioned, so Tang Dynasty verdicts are not specious as some people have imagined. What gives us a strong impression is that Tang Dynasty verdicts pay more attention to legal argumentation, which has adopted the Chinese traditional dialectical argument method normally, that is, “double arguments.” This argument method is usually constituted by two parts. On one hand, it includes some theoretical arguments, which use the syllogism; on the other hand, it include some factual argument, which use the analogy method. In general, two parts pay different roles in an argument respectively: one is positive, and the other is negative. They form a unity. Tang Dynasty verdicts are an important part of Chinese ancient verdicts, which shows that Chinese traditional legal thought are becoming mature in Tang Dynasty.

Keywords: Tang Dynasty verdict words, “Wen Yuan Ying Hua”, the spirit of law, logic, rhetoric, Legal argument