

The Dispute between Provinces and Ministries : A Historical Survey of Judicial Reform during the Late Qing Dynasty

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Abstract

After the bureaucracy reformation started in the end of the Qing dynasty, the newly formed Fabu (Judicial Ministry) was authorized to be responsible for the formulation and implementation of the judicial reform plan, which were questioned by provinces Dufu (Governor-general). However, other central Ministries as Constitutionalism Design Institute (and its predecessor) and Dali Yuan (Supreme court) joined fighting side-by-side with Fabu, and Shuntian Fuyin (the executive heads of the capital and its surrounding areas) and the Garrison Generals were mostly choice to join the camp of Dufu. The two camps carried on the controversy with the official letters and the telegrams. This was so-called “ the Dispute between Provinces and Ministries ”. The dispute focused mainly on question that whether the local judiciary should be independent, the plan of the court establishment and judicial regionalization should be revised, the Judge Qualifications should be relaxed, judicial executive power should be shared, and establishment of the court's deadline should be extended, and other issues. The two sides promulgated the true meaning of legal theory and country conditions, or argued forcibly from law to facts, and eventually reach a compromise, which mostly ended by central government subsided. The result means that local government had challenged successfully the central authority, but also that the judicial reform in modern China should be struggling in a difficult road.

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