Evidence of keeping records about legal and medical cases in China is almost as old as Chinese writing itself. Consider the following story, pieced together from bamboo slips excavated around two decades ago from a tomb at Zhangjiashan, in modern Hubei Province. In 197 BCE, early in the reign of Gaozu, founding emperor of the Han dynasty, a police officer named Shi was ordered to apprehend a runaway slave named Wu. When Shi caught up with his suspect, the two fought with swords and both were wounded. Each man tried to justify his actions. Wu’s story: I should not be considered a fugitive. Although I was slave in the state of Chu [before Han rule], when Chu fell to Han, I was registered as a Han commoner. I was resisting an unlawful attempt to arrest me. Shi’s story: my instructions were to arrest a runaway slave, and when he violently resisted, I had to defend myself. Officials investigating the case argued that even if Wu was entitled to be considered a free commoner under Han rule, he should have surrendered and made his claims to the authorities. They looked into the record of Wu’s registration and referred the case to higher authorities. Eventually the emperor himself signed off on the ruling that Wu should be tattooed and sentenced to hard labor and that Shi was to be set free. The record of this case was one of twenty-two, many similar in nature, bundled together in the grave under the title “Writings on Criminal Cases Subjected to Review [for a final decision]” (Zou yan shu).

Or consider this narrative of an illness, one of twenty-five recorded by the emperor’s official Grand Historian, Sima Qian, in his biography of Chunyu Yi, a 2nd century BCE physician who attracted imperial attention after he had been forced to defend himself against unspecified yet grave charges.

Xiang Chu, an officer of Ban ward in Anling, was sick. I examined his pulses and said it was a case of “male blockage.” When cut off below, blocked male [essence] ascends to the lung region. The disorder develops from within. I told him, “Take care not to expend your strength in physical exertion; if you do so you will
certainly vomit blood and die.” Chu later played kickball, took a violent chill, poured sweat and vomited blood. I again examined him and said, “by tomorrow evening you will be dead.” The disorder developed from within. From examining his pulses, I knew Chu’s disorder was one of yang reversal. Reversing direction, yang [qi] entered the vacancy of the interior, and the following day he died. 

Asked by the emperor to explain his medical arts, Chunyu Yi appears to have used his cases to claim that his skill at reading his patients’ pulses was responsible for his remarkable ability to distinguish between fatal and curable disease and to pre-
scribe effectively.

Though our glimpses of an early Han dynasty local courtroom come from an accident of archeological discovery, they show unsettled times but traces of an order-
ly process of legal decision making with reference both to imperial statutes and
and to higher judicial review in difficult cases. What is less clear is the role of writings like these as court records, since they were found as grave goods, bundled with other texts on medicine, military strategy, and mathematics in the tomb of a low-
ranking official who may or may not have been a legal specialist. Our medical case
narratives are much easier to connect to a physician who wrote them. The Han
dynasty imperial historian Sima Qian tells us that the physician Chunyu Yi kept
unspecified “consultation records” (zhenji) to assist in making his diagnoses, but
he spoke of his cases in public only because he was forced to respond to an impe-
rial inquiry. Texts like these attest to the antiquity of Chinese law and medicine,
the two domains of specialist knowledge that have been perennially associated
with the case as a form of documentation. While they point to the importance of
written records in general and in the workings of government and law particularly,
documents like these are too rare and fragmentary to supply more than a prologue
to our story.

Instead, the essays in this volume trace the process whereby the project of
thinking with cases in China came to self-consciousness over the succeeding mil-

cennium through the production of texts that gradually acquired a systematic and
public character. Experts on medicine and law came to write case narratives to
demonstrate efficacy or to claim validity for a judgment. They were joined by au-
thors of religious and philosophical texts, the Buddhist kōan (gōng’an), and later
the neo-Confucian “cases of learning” (xue’an) in the sixteenth century. The rhe-
torical strategies and forms of argument used by these writers were closely allied
with those found in collections of cases and historical examples composed as aids
to statecraft. Such practices of thinking with cases reveal historically specific epistemologies that offer insight into how Chinese experts mediated between individual instances and more general patterns, how they dealt with tensions between classical canons and norms and practice-based judgment and between techno/
magical and literati/scholarly styles of constructing authority. As each of these different specialist domains fostered its own forms of case production, the case becomes a sign of the historical sociology of emerging professional spheres in China: those of the healer, the judge, the official, the priest. In all these ways, thinking about thinking with cases contributes to our understanding of the early evolution of the sciences and of society in China.

**WHAT IS A CASE?**

The broadest place to start is with the expansive notion, suggested by theorists of narrative form in literature, that any “instance” can in theory be carved out of the flow of events set in time and space and be set aside to be made particular. Rooted in the linguistic form of citing examples and instances in general, such phrases as “the case of” or “in the case that” are syntactical markers of the act of bracketing something as particular, worthy of separate consideration. Somewhere in the neighborhood of an example or an anecdote, a case, in the words of James Chandler, is the “genre that represents situations”—whose meaning must be probed within the form, evoking yet resisting generalizations around it. Chandler reminds us that etymologically the English word “case” shares a Latin derivation with “casuistry,” the Jesuit science of moral situations. Such a theory of the case can serve literary analysis of all kinds and has been deployed by Chandler and others to call attention to the moral and didactic functions of storytelling, from fables to the novel.³

But the case as a form of specialist knowledge has a more specific function. It will have a literary dimension—employing a “style of reasoning” in the sense of artistic style, and be organized as narrative, tolerant of rhetorical flourishes, of plot, character, and drama—features that make some cases such an attractive inspiration for stories told to entertain. But when a detective case or medical case brackets particulars as facts, the forms of reasoning called for lead to claims to empirical knowledge and point to problem-solving interventions in the world. The significance of such a case is neither purely local, like an anecdote, nor does it point toward some general truth already known or assumed, as does an example or illustration.

Here the case is to be distinguished from a story, example, or instance by the kind of authority that authors claim for themselves—that of experts. Even though this authority may be moral and social, vested in learned, genteel, or virtuous persons rather than specialists defined by purely craft or technical qualifications, the expertise of the author is a vital element in establishing the credibility of the narrative. This factor affects the status of the particulars narrated: a story may be about real people and events, assumed to relate a factual history, but a case transforms facts into evidence. Here facts are not simply incidents of interest, illustrative or
storytelling, but are marshaled in an argument in the service of claims. The appeal to evidence is itself a sign that something more than storytelling or illustration is probably at stake. This “something more” is what contributors to the present volume call “thinking with cases.”

The historian of science John Forrester has stimulated recent interest in the epistemology of the “case” with a now classic article that argues that “thinking in cases” is in fact a broad method of producing valid knowledge that should be considered separately from either hypothetical-deductive methods of logic or the inductive methods of experimental science. Forrester’s idea of a “style [or styles] of reasoning” followed A. C. Crombie, Ian Hacking, and Arnold Davidson, who had earlier posited a plurality of field-dependent “styles of reasoning.”

Crombie and Hacking listed the following types: deduction from postulates, experimental exploration, modeling based on analogy, ordering of variety by comparison and taxonomy, statistical method, and historical derivation. To this list Forrester added cases. Cases are connected to one another by common patterns, while at the same time they never deny “the priority of individual cases over any possible generalizations invoking them.” Whatever the field, a case record sets out some truth claim that is specific to an individual situation, while the accumulation of individual narratives forms an archive available for consideration in common. In other words, cases come in groups or sets, and though they cannot yield any truly universal principals, the distribution of commonalities and differences in an ongoing set of cases forms patterns we can learn from.

Forrester’s model of “thinking in cases” is about the styles of reasoning used to forge these relationships. His own examples from the history of case writing in early modern English/Northern European medicine and law point to a common historical epistemology of truth implicit in both, before the rise of experimental science undercut the claims of case-based reasoning in science. With experimental science, there emerged the powerful modern convention about a series of particulars that they should be aggregated by induction, leading to conclusions having a law-like generality. This ideal, applied statistically and informed by probability theory, shapes much contemporary thinking about producing knowledge from cases in the social sciences. However, Forrester’s essay suggests that “thinking in cases” is not a rudimentary or flawed version of an inductive method. Unlike induction, it produces no law-like or probabilistic generalizations. Rather, cases are analyzed collectively in ways that place each one in a series in relationship to others, without, as Forrester says, denying the individual character of each. Forrester suggests to us that we look for three basically comparative “styles of reasoning” that can be in play when any collection of cases is considered as a set. First, one may order variation by classification into kinds, either by grouping like kinds into a species (this is taxonomy in the manner of classical botanical classification sys-
tems) or by considering the distribution of differences ranging from more to less similar (as does Darwinian classification challenging the concept of distinct, unchanging species). Second, one may compare cases by reference to a model or prototype, as when the labels “bird” or “saint” evoke some abstraction from any particular instance of these. When one imagines model cases accumulating over time to record evolutionary changes, one has a method of mapping that is called a model systems approach. Finally, there is the explicitly historical method of appealing to relationships of precedent/descent.

Looked at strictly as “styles of reasoning,” all three of the types described above do not seem to be culture bound. Though they may appear in a variety of combinations, we seem to recognize them across the continents and the centuries. Are we claiming to find here universal rational components that are used in many varieties of local sciences? Broadly speaking, thinking with cases is analogical, and it seems designed to cope with certain perennial tensions between canon, norm, or code on the one hand and contingency and particularity on the other. But such generalizations may be too broad to be deep. So it is time to introduce context by looking at the case in Chinese history.

THE CASE IN CHINA: A HISTORICAL GENEALOGY

Philology suggests a very old and fundamental association of the Chinese word for “case” with the state. In the collection of legal case records found in the Zhangjiashan tomb, dated from the beginning of the imperial era, the noun an, which today means “case,” referred to an on-the-spot investigation into a crime. In the instances collected by Ho Da-an from early imperial texts and discussed in his essay in the Chinese companion volume to this one, the term referred first to a table or tray and by extension to the document thereon. Han scribes sometimes substituted the ideograph an (which had the sense of “commentary”) for the nominal an; gradually, the two ideographs came to represent a verb and its nominalized form (rather like the English word “report,” which can refer to a document, its contents, or the act of making a report). Both evoked a class of documents that have been examined and dealt with by the appropriate bureaucratic authority. The early imperial noun andu (cabinet) even suggests the pigeonholes or compartments into which examined documents might be filed away. Originally a relatively trivial category defined by format rather than content, the scope of the word an expanded until, in the Tang era, it was used to refer to many different kinds of official documents or files, as well as to bureaucratic action involving them. One might “set up a document” (li an), “handle a document” (zhang an), or “read a document aloud” (chang an). Finally, there were phrases for deciding a “case” in the full legal sense: pan an (to issue judgment on a case).
The state, then, played a powerful role in the genesis of the historical epistemology of the case, which is confirmed by the fact that throughout imperial history people’s paradigmatic concept of a case (an) was imagined as a matter of law. Still, the philological traces of the history of writing cases suggest that a rupture with officialdom was a precondition for the full development of compiling cases as a mode of specialist knowledge. In the Tang dynasty (618–905 CE), when the first comprehensive code of imperial laws was compiled, gong’an, later the standard classical term for the legal case, was not written to identify a specifically judicial record. Rather, the term appeared occasionally in Tang texts to refer generally to any bureaucratic document about a matter under official consideration. But the earliest specialist gong’an were created in the course of theological disputation by Tang and later Northern Song (960–1225 CE) Buddhist monks and were added to over several centuries via oral transmission from master to student long before they were ever written down. These became the Chan gong’an (familiar in the West in their Japanese form as the Zen kōan)—the earliest genre of “case” literature in China, which is analyzed by Robert Sharf in this volume (chap. 7). They were first recorded as part of the collected sayings (yulu) of various early Chan Buddhist masters and codified finally only in collections printed in the fourteenth century. Two things stand out here: first, the case is making a detour through oral culture; and second, the genre develops through private writing.

If philology is one path for tracing the history of the Chinese case, the tenth-century invention of printing, making it possible to compile cases as public documents, leads back to law. The earliest surviving printed law case collections turn out to be three interrelated texts that were a product of the enormous expansion of legal institutions in the Northern Song dynasty (960–1225 CE) and that were handed down thereafter, reprinted in the eighteenth-century imperial library’s Complete Collection of the Four Treasuries (Siku quanshu) under the category of “the legalist school.” The earliest, the tenth-century Collection of Doubtful Cases (Yiyu ji), compiled by He Ning and He Meng, two minor judicial officers, contributed some of its cases to its successor, The Magic Mirror for Deciding Cases (Zheyu guijian), compiled by Zheng Ke (fl. ca. 1133). Both of these were drawn upon to complete the selection of seventy-two pairs of cases in the most famous of the three works, Parallel Cases from under the Pear-tree (Tangyin bishi, ca. 1211). This last is the case collection best known to us through the English translation by Robert Van Gulik. All three collections, made up entirely of third-person reports summarizing actual criminal investigations, make claims for validity in two ways: they rely in part on official histories for their techniques of narration and commentary, and they offer advice on criminal detection based on the compilers’ own past expertise as low-level field officers charged with criminal investigations.
The first thing that stands out is the way these texts engage with history. History was a model form of writing factually about “events” (shì)—the term that in early imperial China was also the commonest one used to refer to the content of a case, encompassing beginning, middle, and end. Largely seen as a state function under the early empire, historical writing was a potent wellspring of the rhetoric of validity, exemplified in the formal structure of dynastic history writing that separated truthful narration of events (shì) from authorial commentary or judgment (àn). The dynastic history, compiled by court-appointed scholars of the succeeding dynasty, was based on its predecessors’ accumulated ministerial records and daily diaries of imperial “activity and repose” and constituted history’s judgment on a completed era of imperial rule. The compilers of these first two Song dynasty printed legal collections used biographies of important officials compiled in such earlier dynastic histories as sources. Where these orthodox biographies included reports of cases as illustrations of their subjects’ actions and achievements, now the cases stood alone.

As well as using these selected historic cases to construct a legal tradition based on antiquity, with lessons for the ethical “spirit of the laws,” the compilers added other cases from recent local archives close to their own field experience. The result was a hybrid product where the deference of the specialist to the wisdom of the past tied these case narratives to classical forms of textual authority identified with the state and restricted the expert’s contribution based on his own practice or experience. The reflections and advice of the judicial specialists who compiled these works were bracketed in the traditionally sanctioned form for interpretation in historical writing: as commentary.

The casebooks assembled by the Song dynasty “legalist school” provide insight into two important aspects of legal reasoning in criminal adjudication: the evaluation of evidence and the ideals of justice. Consider the following case, the first in the Magic Mirror collection.

The crown prince of Wu, Sun Deng, once went out horseback riding, when a crossbow pellet flew by. His attendants searched and came upon a man grasping a bow, with pellets hanging at his waist. Everybody thought he was the culprit, but he would not admit it. Deng’s followers wanted to beat him, but Deng would not allow it. He sent somebody to find the pellet that had flown by and compare them. They were not the same kind, and so the man was released.

Comment (àn): When someone suffers injustice, it is usually because of deceptive similarities. If the person hearing a case is not deliberate and attentive, but makes an angry show of his authority, he will end up inflicting a flood of wrongs. Though this was a small affair, it may serve to illustrate something large. This is why I put it at the beginning [of the collection].

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As this example shows, these Song compilations called attention to the role of the legal expert as detective. This makes these collections rich for the historical epistemologist who suspects that criminal law cases may be one of the oldest sources for everyday assumptions about evidence and proof, about the authority of the witness, and the nature of the clue. These Song collections, after all, are the locus classicus for the beginnings of the Chinese detective story tradition inspired by the fame of the eleventh-century magistrate Judge Bao (Bao Zheng). The historian Carlo Ginzburg has written about the European detective as practitioner of an ancient tradition of “conjectural knowledge” that must be gleaned from traces pieced together to make a whole that as a totality has been lost.¹⁰ In Ginzburg’s hands, it is essentially a historical method, whereby causes are inferred from effects by means of the visible signs left behind, as a hunter locates his quarry by examining the disturbances left by the animal’s past movements in the forest. Like the story of the Prince of Wu above, many cases from the Magic Mirror and its companion volumes do pay attention to such external clues in the work of investigation. However, by contrast with the bias toward physical evidence in Ginzburg’s evocation of Sherlock Holmes, with its nineteenth-century privileging of the scientific objectivity of material signs, the “legalist school” is more likely to portray magistrates skilled in psychology, able to see through deception or intimidation. Their strategies of interrogation and entrapment assume that emotions have a moral dimension, and investigators are shown countering the unreliability of both witnesses and physical evidence by making confession the centerpiece of the successful criminal investigation. Evidence of the sign weighs less than the verbal testimony of the only person with full knowledge of the crime—the perpetrator. A concern with the status and reputation of the witness as a sign of truth coexists, perhaps uneasily, with reliance on the problematic figure of the criminal himself as witness to his own deeds.

It is through commentary that the Magic Mirror in particular used historical cases to reflect not just on evidentiary fact, but also on the larger goals of justice. Although the original preface by the compiler Zheng Ke is lost, it is said that he was responding to an imperial edict of 1133 calling for officials to be more lenient in their sentencing.¹¹ Colin Hawes shows that through his commentary, Zheng Ke was able to introduce critical perspective on some famous historical legal decisions now deemed too harsh and to defend a consistent approach to jurisprudence, which, simply put, was to be as lenient as the law allowed. In advocating that the judge apply the criminal code strictly where the result is a more lenient sentence than some would like and that he resort to flexible interpretation when the code’s penalty seems too severe, Zheng Ke was focusing on the inevitable gap between rules and their application in specific situations that thinking with legal cases reveals.¹² Interpreted this way, the Magic Mirror casebook may be seen as
participating in an important Song debate over how the written legal code, which was inherited and adapted from the preceding Tang dynasty, and changing statutory precedents, which accumulated rapidly in the tenth and eleventh centuries, related to a normative moral order identified with the classics and the sages.

These jurisprudential issues are further illuminated by another legal case—a particularly controversial one before the Northern Song court in the eleventh century that pitted the famous rival ministers Wang Anshi and Sima Guang against one another. The defendant was a woman, Ayun, who was accused of attempting to murder her fiancé. When the case was debated before Emperor Shenzong in 1069, Wang Anshi wanted to use Ayun’s prompt confession of her crime to mitigate her sentence, in keeping with statutes that rewarded freely volunteered confessions in this way. Sima Guang considered that hers was in fact a crime of a woman against her (in effect de facto) husband, which in the light of morality and ritual should be judged with the utmost severity, and argued for a capital sentence for a premeditated murder attempt. Their disagreements revolved around the relevance and coherence of statutory precedents in a case where the emotional human circumstances (qing) of the crime raised cardinal issues of morality. Sima Guang did not argue that statutory law should be ignored in the case, but that the court should use the ethical standards of the normative Confucian Way (Dao) in deciding which statutes applied. Wang Anshi tried to find a coherent rationale for a decision solely on the basis of the accumulated laws and precedents of the Song legal system. Although Wang Anshi won the day with the Shenzong emperor, in later centuries most commentators on the matter sided with Sima Guang.\textsuperscript{13}

In sum, these Song deployments of legal cases were brought to bear on the most important jurisprudential issue in traditional Chinese law: how to decide on the appropriate level of punishment for a given crime. The provisions of the penal code, however detailed, were recognized as inadequate to deal with the inexhaustible variability of situations and the issues of morality and emotion (both qing) that surrounded any particular criminal act; yet it was here that the dialectic of judicial leniency versus severity had to be played out. The issue was not one of choosing between law and morality, but of understanding how morality should be brought to bear on matters of statutory interpretation. This was an issue for which legal cases were needed to provide models.

These issues illuminate but do not entirely explain the significance of the most famous surviving printed collection of Song legal cases, \textit{The Enlightened Judgments by Famous Officials (Minggong shupan Qingming ji)}, published in the middle of the thirteenth century. Unlike the earlier works of the Song “legalist school,” this text featured only cases of contemporary jurists serving in the southeastern coastal province where the work was published.\textsuperscript{14} The cases selected reflect the gamut of litigations likely to arrive at the bench of a working county-level local magistrate,
with a heavy tilt toward disputes over property, inheritance, taxes, marriage, fraud, and official malfeasance as well as violent crimes—conflicts that in Europe would mostly be identified as “civil” but that in China were simply designated “minor matters” (xishi). The Enlightened Judgments shows magistrates writing in the first person, outlining for each case the circumstances and briefly explaining the evidence and legal reasoning behind their judgments. These judicial “verdicts” (shupan) belong to a genre of writing that may have owed something to the earlier Tang practice of asking examination candidates to write hypothetical judgments as a literary exercise. Scholars disagree over how the readers of this collection and its successors went about the business of “thinking with cases” here. Internal evidence suggests some pragmatic reasons for the writing of such “verdicts.” They were used when cases were appealed or otherwise sent forward to senior legal officials for review. Sometimes the case summaries were given to litigants as a record of a decision, or posted publicly to inform the community of it. But when the collection was published, it was meant to serve as what kind of a model? Were the cases meant for magistrates themselves, as models of the literary arts of persuasion, or of judicial reasoning balancing fidelity to code and the moral spirit of the classics? Were they read pragmatically by persons who had dealings at law, either as pettifoggers or litigants? Or were they, like the Song legalist anthologies, also seen as entertainment, fodder for the popular genres of detective fiction and drama, which by this period were commonly referred to as gongan? With so eclectic a collection it is hard to say. The Enlightened Judgments does show a mature tradition of “thinking with cases” by magistrates as legal specialists. Their work required technical knowledge of the legal code and its accumulating supplements and statutes and of the legal system’s administrative procedures, while the written case justified the judge’s personal verdict both in relation to the facts at hand and the application of code of punishments to specific circumstances. What has been hard to extract from the collection is any consistent approach to issues of legal interpretation of the kind that exercised experts on law earlier, in the Northern Song.

Looking at the Song dynasty, we can see an enormous expansion of the sphere of law that was characteristic of that era and put the growing popularity of legal casebooks in that larger context. But however they were read, cases never functioned in the style of Anglo-Saxon common law as direct precedents for later judicial decisions. A final complex question remains, however. How might case records, which accumulated in Song central and local government archives in massive numbers, have shaped the making of new law? According to Brian McKnight, it was in the Northern Song that the Board of Punishments systematized the practice of higher-level review of judicial verdicts in serious crimes and of issuing periodic supplements to the legal code (lù) in the form of statutes or precedents (li;
or, as Jiang and Wu prefer to name them in chap. 1, “regulations”). It was understood that, in the manner of precedents, later rulings should supersede earlier ones. Although scholars see issues raised in specific cases in the background of many statutes, this was by no means obvious or acknowledged. In the language of the statute, the details of the original cases would be stripped away. Moreover, many other processes, such as official memo or imperial rescript (comment) or edict, could also inspire new statutes. What is clear is that the proliferation of compilations summarizing supplementary legal rulings far outstripped the ability of working jurists to consult them, provoking a countervailing trend of looking directly to the emperor for ratification of decisions in difficult cases. In other words, however much case precedents may have played a background role in Song legal culture, the only one who could formally make law by deciding cases was the emperor.\textsuperscript{16}

Western scholars have neglected the tradition of “thinking with cases” in Chinese law for several reasons. Failing to find Anglo-Saxon-style case precedents in a Chinese system of codified laws, they have underestimated the extent to which all law in practice involves interpretation—both of the facts on the ground and of the relevance of statute to these. Under the influence of positivist theories of law, they have tended to evaluate judgments like Sima Guang’s above that invoke Confucian ethical norms as somehow extra-legal, lacking grounding—as examples of Confucian moralism overriding positive law. Further, they have tended to see the compressed, highly selective, and heterogeneous case narratives of legal anthologies and magistrates’ handbooks as literary productions, shaped more by scholarly ideals of genteel culture than by a specialist’s need to show off his craft. Certainly, the essay by Yasuhiko Karasawa in this volume (chap. 3) confirms the deep impact that both classical and vernacular models of good writing had on the construction of case reports, but Karasawa also shows literary skills being deployed according to models of validity that carried legal weight. And certainly, the essay by Jiang Yonglin and Wu Yanhong (chap. 1) on Ming dynasty case decisions as produced by both a local magistrate in the sixteenth century and the founding emperor in the fourteenth is rich with evidence of moralistic judgments, but it also illustrates a dialectic between statute and ideals of “fairness” where the play of legal interpretation is revealed.

Where lay this dialectic in the Ming dynasty? There is no doubt that the founding Ming emperor intended that the 460-section \textit{Great Ming Code}, completed in 1397, be an entirely comprehensive successor to its Tang and Song prototypes. But this code also accumulated statutes, decrees, and commands over the decades, while the attached \textit{Grand Pronouncements}, made up of the imperial founder’s verdicts in individual cases, gradually lost their status as precedents, most being judged too harsh or arbitrary by succeeding judicial authorities. Even more impor-
tant, as Jiang and Wu’s account of published “court opinions” by the sixteenth-century magistrate Mao Yilu shows, a great part of a working magistrate’s docket consisted of everyday disputes and transgressions that required the magistrate to arrive at a fair verdict by keeping in mind the sometimes competing claims of “principle” or “reason” (li), “sentiment” (qing), and “law” (fu). Balancing these three was to engage in the same dialectic. If “law” came first in the form of the code and its supplements, “principle” invoked neo-Confucian philosophy (“the learning of the Way,” or lixue), while “sentiment” focused on both the emotional and ethical components of human relationships—components that Confucian moral psychology ever since Mencius had taught were intertwined. However global the philosophical and ethical connotations of these ideas, in the context of adjudication they were also recognized as legitimate legal norms. If jurists had more latitude to treat statute elastically by appealing to the other two in the cases classified as “small matters” (xiaoshi) where penalties were light, exactly the same principles of reconciling “law” and “sentiment” could and did bear on capital crimes.

Cases, therefore, are where the work of interpretation in Chinese law can be seen. As such, case collections were not simply exercises in literary showmanship or official self-promotion, although they often were these. Nor were they even just models for emulation or study, though this function seems obvious, as fulsomely attested in prefatory introductions to printed collections. In cases lie traces of the practices of a legal community, including its assumptions about the ground of interpretation itself. Principles drawn from the classics and moral philosophy shaped that interpretation and were expected to provide the bridge between formal law and particular circumstances.17 This idea of a legal system as a community of practice in the context of a historically derived interpretive culture is in accord with the legal theories of the contemporary Harvard scholar of jurisprudence Ronald Dworkin. It is interesting that Dworkin’s modern anti-positivist theory of law, in rejecting the idea that law can ever be defined semantically by enunciating rules or defining their nature, turns to “hard cases” for explanation. In Dworkin’s framework, law cases, with their capacity to instantiate principles in story and detail and to encode ethics in specific judgments, become the privileged ground of jurisprudential theory. While it is clear that traditional Chinese jurisprudence contained its own theory of “positive” law as code and edict emanating from the sovereign, it is tempting to imagine that magistrates, in compiling casebooks and making them significant bearers of legal knowledge, may have been implicitly offering a countervailing portrait of the law itself. “Thinking with cases,” then, would become both an important dimension of the internal history of Chinese legal practice and a path to our better conceptualizing it from the outside.18
In this volume the essay by Pierre-Étienne Will (chap. 2) shows how after the seventeenth century, in the Qing dynasty (1644–1911), cases acquired a more formal kind of recognition in the imperial legal system. Some might be designated “leading cases” (cheng’ān) by imperial rescript and circulated to supplement statutes and substatutes as a third level of codified instruction to magistrates. “Leading cases” could not be cited explicitly as precedents justifying a particular legal decision, but they were expected to suggest analogies to guide the magistrate toward suitable statutory interpretations. A wealth of published anthologies of “leading cases,” indexed to statutes in the code or even grouped by type, attest to their usefulness. In Will’s analysis of forensic cases, we do not see “leading cases” but quite ordinary ones compiled and circulated by legal experts in charge of autopsies (often lower-level law clerks). But their authors are entirely comfortable presenting these narratives of particulars as material designed to compensate for the rigidities of the official manual on forensics that was attached to the Qing code. The focus on bodily signs, material circumstances, and even physical anatomy in the cited forensic case records suggests to Will a spirit of evidentiary reasoning and problem solving aimed at improving knowledge, not just arriving at a correct verdict in an individual instance.

From the early Song “legalist school” to the “leading cases” of the Qing dynasty, cases at law were discussed and read by both experts and literate members of the public and reached into popular culture through performance and storytelling. In the Ming and Qing dynasties, diverse forms of written and published legal case records proliferated and were increasingly identified by the generic label an. These ranged from pettifoggers’ handbooks (song’ān), to magistrates’ memoirs (gong’ān), to the Qing-era “[Board of] Punishments cases” (xing’ān), which were the case summaries that working local magistrates had to send forward to that central government ministry for review. Against this long historical background, the example of law, and in particular the metaphor of the judge, was readily available to be appealed to by late imperial specialists in other domains in explaining the inspiration behind their forms of the case. Both physicians and philosophers do this in the prefaces to their case collections discussed here.

Keeping notes on their patients and treatments was probably as old as literate medicine in China. We have seen how such notes figured in the famous biography of the second-century BCE physician Chunyu Yi in Sima Qian’s history. But public written records of medical cases, like legal ones, first appeared embedded in the biographies of physicians that made their way into the dynastic histories, most often as third-person stories of marvelous cures. There are no surviving examples to compare with Chunyu Yi’s case notes, for the traditions of hereditary physician households meant that craft secrets, like records of what pharmaceutical
formulas doctors used, did not circulate to the outside. It was Song dynasty examination culture that provided a model for a new-style physician, learned in state-authorized medical classics, whose public persona was that of a scholar (ruyi), not a hereditary craftsman or religious specialist. And it was scholarly “literati physicians” who began in the thirteenth and fourteenth centuries to include brief narratives of their own cases in their medical treatises, and in some instances to add a separate case history section. In 1531, The Medical Cases of Wang Ji (Shishan yì’ān) broke new ground as the first published medical case history collection by a single author. It was quickly followed by others. By end of the sixteenth century the medical case history collection was an established genre among learned physicians. In the eighteenth and nineteenth centuries, proponents of the revisionist “Warm Factor” (wenbing) school of therapists popularized a leaner, less discursive style of case history writing focused almost entirely on explaining the prescription formula used in a case. Anthologies also became popular, following the model of the late sixteenth-century collection Classified Cases from Famous Doctors (Mingyi lei’ān) compiled by Jiang Guan.

In sum, public records of medical cases appeared in the first millennium CE embedded in historical narratives, and then in the Song and Yuan developed as illustrative anecdotes incorporated into the writings of learned physicians themselves. The record-keeping role of scholars, who circulated case notes supplied by physicians who treated their families, is illustrated in Ping-chen Hsiung’s narrative of the pioneer twelfth-century pediatrician Qian Yi in chapter 5. The medical case history achieved a maturity of form in the Ming, when it became a record of a doctor’s own experience, often constructed to convey a particular therapeutic strategy in pharmacy. In my essay on medicine in this volume (chap. 4), I argue that Ming casebooks reflected the emergence of competing styles of prescribing associated with different medical “lineages of learning.” In this way the case history collections spoke to one another, while their prefaces make clear that authors imagined them as useful aids to diagnosis, part of an archive of past experience for physicians to draw upon at the bedside. This growth of the genre of medical case history writing and publication was fostered by the dilemmas of the new post-Song “literati physician,” who was expected to model his learning on that of scholar-official graduates of imperial examinations, treating the ancient, thousand-year-old medical corpus as canonical, even as more recent medical masters increasingly emphasized the temporal and geographical mutability of disease. In the dialectic between text and experience, producing medical knowledge using cases privileged the latter, allowing physicians to bypass the traditional canon/commentary mode of thinking common in classics and historical learning for a direct consideration of clinical manifestations. Cases highlighted the doctor’s skill at
matching symptoms with pharmaceutical remedies, becoming a logical venue for
teaching the hermeneutics of prescriptions.

If the medical case history belongs to a specialist domain that seems closest to
that of a science in the modern sense, what are we to do with the Buddhist
gong’an? Robert Sharf has argued that in the Tang and Song dynasties Chan
gong’an were not enlightenment narratives designed to short-circuit intellection,
as later Japanese-inspired Zen authorities claimed. Rather, they grew out of peda-
gogical performances designed to teach student monks the intricacies of doctrinal
reasoning in a world of contingency. Such gong’an were part of a dense web
of scholarly argument and counterargument designed to provide aspirants with
scripts for dealing with the theological puzzles that were the inevitable con-
sequence of Chan rejection of all timeless ethical or philosophical doctrines immune
to paradox and logical contradiction. Through the “enlightened repartee” of the
gong’an, the Chan believer learned to undermine any point of reference claim-
ing to anchor belief. As such, famous gong’an were cases designed to serve as
models for a group of religious specialists engaged in a creative game of scholastic
argument.

In the late Ming, neo-Confucian philosophers developed their own version of
thinking with cases in “cases of learning” (xue’an). Like Chan monks, these
Confucian philosophers were looking for paths to self-cultivation and enlighten-
ment. When a number of sixteenth- and seventeenth-century philosophers gath-
ered their biographical narratives of Song and Ming Confucian sages and worthies
under the rubric of “cases of learning,” their format of recording “words and
deeds” followed a standard pattern common to both Buddhist and Confucian
hagiographical biography. Their writings also recall collected biographies of
groups of people identified by moral or social type—the legions of “knights er-
rant,” “chaste women,” “worthy officials,” or “evil ministers” whose catalogued
lives fill so many official histories. Certainly such collective biographical sets may
be thought of as a form of “thinking with cases.” Each life and its circumstances
are different, yet collectively they point to a norm intended for moral instruction.
They evoke the form of the case that in European historiography of casuistry is
identified as the “exemplum”—an example carrying the didactic force of a reli-
gious teaching.

But Cases of Learning of Ming Confucians by Huang Zongxi (1610–1695), which
followed an earlier collection by Geng Dingxiang (1524–1596) and another by Liu
Yuanqing (1544–1609), requires a deeper reading of the generic form of model bi-
ographies. These works emerged in the context of the bitter debates inspired by
the sixteenth-century philosopher Wang Yangming, whose radical critique of the
officially approved doctrines handed down from the Song founders of the “Learn-
ing of the Way” associated with Zhu Xi had attracted a powerful following. “Cases of learning” began to be produced in the late Ming at a time when the “Learning of the Way” orthodoxy (lixue) was splintering into contending philosophical factions, and the very idea of a single doctrinal line of transmission from antiquity via the Song to the present Ming-era masters was increasingly hard to maintain. Hung-lam Chu’s essay here (chap. 8) shows how each of the important sixteenth- and seventeenth-century collections of “cases of learning” took a position in the controversies surrounding the philosophy of Wang Yangming—offering its “dossier” on one or more individual philosophers, consisting of a biographical narrative and a selection of the subject’s writings. Supporters and critics of Wang Yangming each produced their own casebooks. The work of genius among them, Huang Zongxi’s Cases of Learning of Ming Confucians, looks for a way out of the dead end of, on the one hand, looking for a single orthodox line of transmission of the Way, or, on the other, the cul-de-sac of subjectivism that might follow a literal reading of Wang Yangming’s democratization of sagehood. In Huang Zongxi’s hands the “cases of learning” dissolve the One into the Many—the unitary Way can be seen only in the multiplicity and particularity of different sagely lives. By putting biography in the foreground, the “cases of learning” also encoded in the text Wang Yangming’s central doctrine of the unity of knowledge and action.

In sum, in a late-Ming moment of social and intellectual crisis, the form of the case encouraged a different way of philosophizing. It accommodated debate among partisans who had to back their positions with evidence and who could rely on no transcendent or unquestioned authority of sagely transmission to fall back on. It also accommodated a philosophy that asserted the epistemological priority of personal action and experience, a Way that could be grasped only in the individual particularity of lives as lived. Rather than combing the records of Ming Confucians for the orthodox lineage of learning or measuring each scholar/sage against a fixed standard model/template of moral behavior, the seeker of the Way was invited to choose the path according to his own circumstances. “Cases of learning” pointed to situation ethics and to the necessity of individual judgment. The closest comparison in Western tradition may be to that of casuistry—the “cases of conscience” that taught how to translate Christian ethical norms into a Catholic priest’s judgment of a sinner’s individual confession.

The foregoing lays out a historical trajectory of all the major types of case collections that contributors to this volume examine. We can see that the legal case matured in the Song, the medical case matured in the Ming, and that the learned case was a product of the late Ming. Now I want to return to the scheme of “styles of reasoning” to see if we can find culturally specific inflections to the forms of the case in late imperial China.
If thinking with cases is fundamentally about working with analogies, Forrester reminds us that there are a number of ways that analogy can be used and offers three types of analogical reasoning: 1) classification into kinds—taxonomy; 2) relating individual instances to a model, where models in turn might be defined differentially as exemplar, prototype, or model system; and 3) ordering by the historical relationship of precedent/descent.

Using cases to produce a taxonomy, or classification into groups of like kinds, is the method that seems closest to inductive method, aggregating like particulars and aspiring to find general patterns in them. Closest to the natural sciences, this strategy is also one that Forrester rejects as antithetical to the fidelity to the individual that he thinks essential to “thinking in cases.” Classification of individual instances into types or kinds forces the similar to pose as the same: that is, it requires the erasure from view of nonconforming particularities. Chinese specialists resorted to classification for ordering knowledge of the “things” (wu) of both the natural and the social worlds, as found in numerous published encyclopedias or anthologies organized according to “classes” (lei). A common strategy for classifying the contents of both encyclopedias and more informal miscellanies (called biji) was to appeal to the cosmological hierarchy of Heaven, Earth, and Humanity, or the bibliographers’ hierarchy of classics, histories, belles lettres, and monographs, or even to an order proceeding from the imperial center outward to the provinces, foreign parts, and the world of nonhuman nature beyond.

The same sort of value-laden eclecticism is found in plant classification, which would seem to be the most suitable for taxonomies resembling those of Western natural science. Robert Hymes has looked at a Song catalogue of chrysanthemum flowers, where the higher order classification into sets is cosmological (based on the symbolic hierarchy of color and season according to the cosmology of Five Phases [wuxing]), but where delight in variety produces descriptions of individual types that both cut across the hierarchy and are replete with attention to features not relevant to the overall ordering scheme. In medicine, works on materia medica (bencao), mostly substances derived from plants, appealed to a cosmologically resonant three-part hierarchy of therapeutic value and potency as well as to natural categories such as grasses, fruits, and trees. Li Shizhen, the late sixteenth-century author of the famous Classified Materia Medica (Bencao gangmu), was innovative in providing a more complex, though still cosmologically ordered, hierarchy of nature in his organization of the major divisions of his work. But his intermediate-order framework of “classes” (lei) and, below them, “kinds” (zhong) ordered individual entries around folk-taxonomic concepts such as habitat, morphology, or use. In particular, his “classes” that grouped similar “kinds” only partially overlap modern botanical families, reflecting instead what George Metaille
calls “tacit knowledge” that indigenous peoples have of their environment. Here the overall laxness of taxonomic analysis in the production of empirical knowledge in China may have the richness of its case history tradition as a counterpart.

Ming medical case history collections were organized by topics, in books sometimes claiming to be ordered by “classes” (leishu). But the textual presentation of medical nosology did not produce species-like diseases, nor were cases classified according to the deep patterns believed to constitute the “root” (ben) of a disorder. As I argue in my chapter on medicine in this volume, the art of diagnosis was understood as one of recognizing the shifting dynamic of a small number of deep patterns of disorder while maintaining emphasis on the individual character of each clinical situation. Empirically, beyond broad categories like “medicine for women” (fuke) or “pediatrics” (erke) or “external medicine” (waike), casebooks organized entries around medical signs and symptoms or around parts of the body, allowing physicians to use them as clinical aids in diagnosis. The deeper dialectic of pattern and symptom did become an organizing principle for the eighteenth-century clinicians Yu Zhen and Ye Gui, who used cases to try and show how superficial similarities in symptoms could mask deep underlying differences in disease patterns. Legal collections most often organized cases according to categories of the legal code. In both medicine and law, then, classification ordinarily operated at the frankly eclectic level of an index or a table of contents, allowing users to find analogies to problems as they initially presented themselves for solution.

The idea of a case as a model was a natural one in China, where exemplary biographies were a time-honored form of didactic writing and where the metaphor of a carpenter’s compass and square was a classical cliché for any example worthy of emulation. The commonplace rhetoric of imitating a model would suggest that here models are to be understood as closest to Forrester’s “exemplar.” But the “exemplar,” which in today’s philosophy of science points to standard experiments used to teach students of physics or chemistry, evokes the standardization of a blueprint rather than the human variation found in China’s mainstream biographical tradition. Exemplary biographies of Confucian worthies, virtuous women, or wise rulers and ministers, and Buddhist and Daoist tales of salvation, immortals, or recluses all relate cases to a model as a form of moral instruction in keeping with the didactic form of the “exemplum.” In this kind of moral discourse, the norms or rules of right conduct are implicit; they cannot be reduced to a code, but will be seen as embodied in virtuous persons. However rigid or formulaic the model cases may seem from an outsider’s perspective, the model format carries with it the assumptions of situational ethics. Biographical detail invites comparison with readers’ actual lives. What makes the late-Ming “cases of learning” that Hung-lam Chu explores stand out here is the degree to which the ideals
of thought and conduct appealed to presented the student with real alternatives—not only a variety of philosophical paths, but the path of a life of action or of study, government service or private learning, discipleship, or the hermit’s hut. This irreducibility of case to type distinguishes a model system from a more formulaic idea of a model as exemplar or exemplum and reveals the limitations of the more stereotypical collections of Chinese model biographies.

The third type is the historical relationship of precedent/descent. Here the ordering of cases requires consideration of the authority of history in the context of changing circumstances. As we have seen, in Chinese law, which was formally derived from the emperor and spelled out in the imperial penal code and administrative regulations, there was no theoretical place for precedent as the maker of law in the manner of decentralized Anglo-Saxon jurisprudence. Nonetheless, the record of statutes or 例 beginning in the Song and of the Qing “leading case” ( Cheng’an) shows law adapting to changing times. As Pierre-Étienne Will’s chapter here suggests, the Qing innovation of the “leading case” provided a context for his forensic specialists’ use of cases to correct inadequacies in the legally binding official guidelines concerning autopsies.

In sum, we see cases in Chinese law, medicine, and philosophy as a strategy of modernists in an intellectual tradition that gave awesome weight to the authority of antiquity. With cases they negotiated the gap between classic and circumstances, code and crime, medical canon and therapeutic strategy. A record of a particular situation might provide a useful analogy with a later situation, equally particular. The intellectual link between one case and another led to a strategy of intervention in a particular crisis. Cases, then, were directed toward local, situated knowledge in a context where appeals to canonical authority were felt to be inadequate and the possibility of rival viewpoints was always implicitly present. It may be no accident that specialist writing on cases proliferated between the sixteenth and eighteenth centuries, when elite Chinese intellectual life was shifting away from earlier forms of classical orthodoxy toward the historicist, empiricist, and cumulative forms of classical scholarship called “Han learning” ( Hanxue). If John Henderson is right that the tradition of commentary—a learned form that accommodated critique and innovation as long as it could still reference a sacralized canon—lost ground in the critical climate of the eighteenth century, then the form of the case itself may have played an innovative role. Contributors to the Chinese-language volume on the case published in Taiwan (companion to this one) argue that “thinking with cases” not only fostered a spirit of empiricism, but one of independent thought as well.

Finally, the Chinese inflection to “thinking with cases” is to me notable for the way practitioners understood it as linking knowledge and action. Whether philosopher making ethical choices, diagnostitian selecting the prescription to use, or
judge determining the punishment that fits the crime, the actors in case narratives must not only evaluate situations, but also intervene, not only interpret evidence, but also make facts on the ground by their power to shape events. This means that case narratives were likely to focus not just on evidence, but on judgment. Judgment calls attention to the gap between any rule and its instantiation in an individual set of circumstances. Rendering judgment goes beyond technical expertise, to a remainder that is insight and is personal. And it means that validity is tested above all by experience, by the efficacy of outcomes that, however astutely anticipated, cannot be predicted with certainty.

THE HISTORICAL SOCIOLOGY OF THE CASE
Throughout this introduction I have repeatedly associated the production of case narratives with specialist knowledge. Because that knowledge was linked to action, it is easy to see how “thinking with cases” facilitated a decision procedure important both in itself and as an underpinning for the specialist’s authority. If we think about specialists in law, medicine, and religion/philosophy, in modern perspective we are talking about the emergence of what are commonly understood as the professions: the doctor, the lawyer, the priest. It is easy to see how the spread of printing, the emergence of examination culture, and the development of the late imperial economy provide a context for the increasing specialization of Chinese occupational roles and the development of bodies of learning appropriate for each. The scholar physician or the legal expert who was the magistrate’s private secretary in the judicial bureaucracy fits this picture. Even for those whose working lives were passed in the imperial civil service, John Dardess has argued that as early as the formative decades of the Ming dynasty, scholar officials possessed a “professional” service ethos, a sense of group identity and self-policing bureaucratic criteria of performance.23

Of course, we cannot simply throw away the literati ideal of the classically educated man of letters that shaped the self-fashioning of almost all who were educated. The social prestige of the gentleman that permeated examination culture also has left fingerprints all over the writings defined here as “specialist.” Judith Zeitlin’s essay on the sixteenth-century physician Sun Yikui (chap. 6) argues that medical case history collections played the role of a doctor’s literary works (wenji), while Yasuhiko Karasawa shows how literati ideas about good writing shaped the rhetoric and language of legal case narratives. Such habits of thought add an additional layer of complexity to the problem of trying to define the “professionalization” of specialist occupations in the late imperial period. Sociologists are divided on the theoretical issues: some emphasize “profession” as an ideal type, while others prefer to think about a historical process. If the ideal type encompasses formal qualifications for practice and autonomous institutions to police member-
ship and standards, few Chinese occupations fit this pattern before the twentieth century.

Nonetheless, if the emphasis is upon a group identity based on a shared body of learning and socially recognized networks of affiliations and on specialized services provided in the context of a commercial exchange (salary or fee), it is easier to recognize that the vocational worlds of Qing medical, legal, and even religious experts were moving in that direction. The obscure legal experts on forensics discussed by Pierre-Étienne Will in his chapter here were among the ranks of “private secretaries” (muyou) whose technical knowledge in everything from law to financial administration was essential for the operation of Qing dynasty provincial and local government offices (yamen). As Will himself has shown in his massive bibliography of Chinese official handbooks, the manuals compiled specifically by and for private secretaries are testimony to the cumulative technical sophistication of specialist knowledge relevant to government as well as the persistent social distinctions between such specialists and ranking magistrates.

It was not so different with doctors. Even as nineteenth-century practitioners who saw their patients in urban clinics and earned income from the pharmaceutical trade found the moral image of “literati physician” invaluable, they depended upon networks of lineage, discipleship, and locality that created and sustained their reputations as effective physicians. As Volker Scheid has argued, the use of Western sociological categories can obscure the way these late imperial learned physicians and others imagined the communities that legitimated their technical knowledge and practice. Thinking with cases is presented in this volume more as a kind of knowledge production than as sociological evidence. Nevertheless, it may be that reading, writing, and circulating cases itself may be taken as one marker of a professional orientation among certain individuals and groups in late imperial China.

Certainly, the lingering image of a Confucian “amateur ideal” keeps historians of China underestimating the degree to which working officials and their staffs deployed specialist knowledge in the administration of the empire. Robert Hymes has called attention to the use of history as an archive of cases in policy debates at the Northern Song court, including written materials for official examinations and those prepared for the education of the emperor. A generation ago, Robert Hartwell hypothesized that these sorts of materials, under the Song bibliographical category “gushi” (lit. “old events,” translated by Hartwell as “historical models”), constituted a practice of using historical examples as case histories in a way that anticipates modern social science. But as Hymes pointed out, the written records Hartwell appealed to were in fact much more heterogeneous, and even a history titled A Mirror for Aid in Governing (Zizhi tongjian), as Sima Guang’s great work was, does not fit the form of the case. Nonetheless, over the course of imperial history Chinese officials high and low produced hundreds of handbooks on ad-
administration, including in them specialist guides to defense and military training, famine relief, finance, water control, and much besides. The essays in this volume do not do much with these, but the hope is that our project will call attention to all sorts of sets of cases embedded in the vast archive scholars identify as magistrates’ handbooks. These works in all their heterogeneity include a good number that manifest “thinking with cases.”

But it is interesting that very few of these statecraft-oriented official handbooks were called an. Will’s bibliography of official handbooks shows that in the writings of late imperial government experts and officials, an did not name an early form of social science, but a specifically legal and forensic kind of text. By the late Ming dynasty, the Chinese generic term an was embraced not only by doctors and legal experts, but also by the scholarly authors of some texts on theology and philosophy, while being ignored in the mainstream of a sophisticated tradition of statecraft. How do we explain this? Could it be that here the specialist label an appears as a sign policing the boundaries between more and less prestigious ways of writing about the craft of government? Or is it a subtle intellectual distinction? We would have to look at more statecraft manuals to begin to address this.

CONCLUSION: SCIENCE STUDIES, CHINESE SCIENCE, AND THE CASE
For most of the twentieth century, premodern China was assumed to lie outside the mainstream of world historical scientific development as defined by the achievements of Europe and North America since the seventeenth century. Among Western-educated Chinese reformers of the Republican period (1911–1949), public intellectuals like Hu Shi (1891–1962) argued that after the seventeenth century there had been an intuitively inductive indigenous “empirical” tradition in the historical, archeological, and philological studies pursued by Qing “evidential scholars” (Hanxue, shixue). These men were committed to authenticating the original texts of China’s pre-imperial classics. In addition, Hu and other Chinese followers of John Dewey announced that this philosopher’s view of science as a pragmatic method tested by concrete experience was well suited to long-standing Chinese conventions of inquiry, while a variety of Western-trained experts from the geologist Ding Wenjiang (1887–1936) to the chemist Ren Hongjun (1886–1961) found homegrown intellectual ancestors in the technical writings of explorers, technologists, and astronomers of the imperial past. Beginning in the 1950s, the wealth of such technical literature was made visible to the English-speaking world through the monumental scholarship of Sir Joseph Needham as documented in his multivolume Science and Civilization in China. However, all these undertakings carried the burden of a positivist model of science, reserving a privileged place for the European “scientific revolution” with its fixation on experimental procedures confirming universal and constant natural laws and the assumption that the valid-
ity of evidence is guaranteed only if it is uncontaminated by influences introduced by context or conditions of observation.

Over the past generation, the critical and deconstructive perspectives of contemporary science studies, with their emphasis on the plurality of sciences and their foundation in multiple practices, have provided space to reconsider the history of science in China. Building on Nathan Sivin’s pioneering studies of ancient astronomy and medicine in context, Benjamin Elman has documented a rich late-imperial tradition of “natural studies” or “natural philosophy” understood at the time as an application of the Song philosopher Zhu Xi’s call for “investigating things and extending knowledge” (gezhi). If this was not science as moderns understand it, neither was the Jesuit natural philosophy that invigorated Chinese natural studies in the seventeenth and eighteenth centuries—a body of knowledge that stimulated innovation in such fields as mathematics, computational astronomy, cartography, and engineering, while remaining constrained by religious and political agendas on both sides.

Seventeenth- and eighteenth-century Sino-Western “scientia,” to use Elman’s phrase, was a learned undertaking, carried out by men who were highly conscious of cosmological and philosophical worldviews bearing on their activities. If Elman makes his contribution by framing early modern scientific activities in both European and Chinese historical contexts, a specialist on Chinese agriculture, Francesca Bray, attacks the master narrative of modern science literally from the ground. She argues that the science/technology distinction, although reified in standard academic disciplinary boundaries, is a recent epistemological artifact based on assumptions about the primacy of theory. If science is made up of declarations—claims about the natural order—and if technology must be seen as a sociomaterial system for producing effects in the world, both are mediated by what she calls “technique”—“skilled practices” of individuals that produce both knowledge and things. By pointing to the bricolage of artisanal work, the shaping role of available instruments (even in the modern laboratory), and the utilitarian agendas of practitioners everywhere, she makes a case for the tacit knowledge and manual labor that went into the “patterned manipulations of matter” of traditional Chinese agriculture. Focusing on this toolkit of “techniques” allows us to bring potters and navigators, bridge builders and plant breeders into a picture of the work of science where large-scale models of natural processes remain mostly invisible and where shaping sociopolitical regimes of knowledge must be part of the picture.

The study of cases adds a new dimension to this pluralistic picture of science as historically conditioned and heterogeneous in practice. Thinking with cases, as Forrester’s work suggests, argues for a multiplicity of field-dependent methods as well as of practical techniques—epistemological pluralism, if you will. For the
Taiwanese scholars who worked on this project, the story of “thinking with cases” in China allowed them to pick up the early twentieth-century discussions of “Qing empiricism” and of the practical reason (shixue) characteristic of Chinese statecraft and to recuperate some methodological strategies implicit in these traditions. When the volume edited by Ping-chen Hsiung took as its title Let the Evidence Speak, it was a sign that scholars from China, still aware of lingering stereotypes of their civilization as scientifically lacking, are more interested in the phenomenon of thinking with cases as a container of evidence than as a rhetorical form. They also appreciate case-based reasoning as an open form, associating its capacity to accommodate change with freedom of thought as a sociopolitical value.

Looking back, it is not surprising that in China, with a strong tradition of statecraft but without a so-called scientific revolution, specialists never learned to divorce the legal case from other forms of “thinking with cases.” The story of the “case” in the modern north Atlantic world has been one of ambivalence as law and other specialist domains gradually took separate paths. When, after the seventeenth-century, “thinking with cases” gradually came to be judged by the standards of natural science, law lost its relevance, while the experiential lessons of medical cases were gradually found wanting in comparison to the truth claims of experimental methods or statistical reasoning. In the twentieth century the case revived—first under the influence of psychoanalysis and then more broadly. It has ended up being bracketed with the modern “human sciences”—there is the social science “case study” or the case method of pedagogy in schools of law, medicine, and business.  

But the history of the case in China is clearly about the expertise needed to find proper grounds for action in a world of historical contingency. In its didactic aspect, it is in harmony with the robust contemporary manifestations of thinking with cases in the curricula of law, medical, and business schools, where the case history methods pioneered in Harvard classrooms in the early years of the twentieth century are still basic tools for teaching. In its moralistic concerns, it is in harmony with what Forrester calls “the new casuistry” of medical ethics—the application of moral judgments in specific clinical situations. In all these ways it brings into question the uneasy generalizations of contemporary social sciences in search of constants of social behavior identified with rationality independent of value. Thus the examples gathered here—the Chinese case writ large—throw light upon a perennial feature of “thinking with cases” that has been obscured by the modern obsession with the particular as a datum that gains significance only when aggregated into stable general patterns. Such patterns are valued in modern science as part of an epistemology that demands that explanation be about causes and follows Aristotle in claiming that such knowledge alone is universal. Thinking with cases evokes other paths—those connecting knowledge to experience and
directed at outcomes, successful interventions in the world rather than law-like representations of it. In this way our exploration of the Chinese case has become an exercise in what has come to be called the social history of truth, one that may help recuperate the case as a mode of producing valid knowledge.

NOTES

1 Zhangjiashan Han mu zhujian [ersiqi hao mu], 216. Archeologists believe the occupant of tomb 247 died around 186 BCE. My thanks to Michael Ludke for calling my attention to this archeological text and for assistance in interpreting it.

2 Sima Qian, Shiji, 9:105.2812–2813.


5 Forrester, “If p, then what? Thinking in Cases.” By naming his essay “Thinking in Cases,” Forrester artfully calls attention to the fact that his own essay instantiates his project, being organized around a number of case examples. Along with the other contributors to this volume, I am greatly indebted to Forrester’s ideas. In the present volume, we have changed the preposition to with not because it adds anything new, but in order to mark his contribution as unique.

6 Ho Da-an, “Lunduan fuhao.”

7 See SKQS, vol. 739. These Song works are grouped with the classics Guanzi and Huainanzi.

8 Through the translation by Van Gulik, the Parallel Cases from under the Pear-tree has until recently been the best known of the three collections. Its selection of cases for entertainment value has made it difficult to evaluate from a jurisprudential point of view, while Van Gulik’s argument that the extant text of the earlier Magic Mirror is corrupt has discouraged scholars from its study. My account of these works relies on Hawes, “Reinterpreting Law,” which critiques Van Gulik’s textual judgments and analyzes the original commentary to the Magic Mirror.

9 Zheng Ke, comp., Zheyu guijian, juan 1, SKQS, 729:864.

10 Ginzburg, “Morelli, Freud, and Sherlock Holmes.”


12 Ibid., 54, sums it up as follows: “The written laws may be interpreted flexibly when the result is a fairer and more lenient sentence, but they should be strictly applied when a flexible interpretation would result in a harsh, possibly unjust, sentence.”


14 Brian McKnight and James Liu provide an introduction and translation of about half the entries in the original, which was largely lost for many centuries before a copy was discovered in Japan in the 1980s. A modern, punctuated Chinese version of the original appeared in 1987.
15 In the Tang dynasty and Northern Song, examination candidates were asked to write shupan based on hypothetical cases. A Tang collection by Bo Juyi and Zhang Zhuo, Dragon Sinew and Phoenix Marrow Judgments (Longjin fengsui pan), assembled models of this essentially literary genre. Southern Song examinations dropped this category of question. See discussion in de Pee, “Cases of the New Terrace.”

16 See McKnight, "From Statute to Precedent," 111–126. This is the gist of his revision of the Japanese scholarly view that the Song legal system passed from a “dependence on statutes to a dependence on Edicts, and then to a dependence on Precedents.” Revisiting the issue in “How Did Cases Become Precedents,” McKnight notes that Song legal documents often contained passing references to case precedents from the raw archive to which the working jurist had access, but only very rarely did they cite statutes in a judgment.

17 Critiquing the Anglo-American scholarly search for “customary law” in the Qing, Bourgon in “Uncivil Dialogue” argues that magistrates’ casebooks are where “model judgments . . . are often guided or framed through principles drawn from the Classics” (82), allowing one to see an equity-guided “juristic reasoning elaborated to resolve particular cases rationally” (68).


19 See Hymes, “Some Thoughts on ‘Thinking in Cases.’” The work in question is The Register of Chrysanthemums (Ju pu) by Liu Meng (fl. 1104).

20 Metaille, “The Bencao gangmu,” 238. Metaille sees Li Shizhen as an important innovator in his own context of the neo-Confucian “investigation of things and extension of knowledge” (gezhi). He broke with the pharmacological tradition of thinking of materia medica primarily in terms of their therapeutic properties, and he combined philological research and field investigation to bring order into the multiplicity of historical and vernacular nomenclature, linking diverse “names” with identifiable plants and animals.

21 See Henderson, Scripture, Canon and Commentary; and Elman, From Philosophy to Philology.


23 Dardess, Confucianism and Autocracy, 13–84.

24 Will, “Official Handbooks and Anthologies of Imperial China.” This giant, bibliographical work in progress had close to one thousand separate annotated titles as of the end of 2005.


26 Hartwell, “Historical Analogism.”

27 Hymes, “Some Thoughts on ‘Thinking in Cases.’” His examples of historical casebooks are The Learning of Emperors (Di xue) by Fan Zuyu (1041–1098), a work composed entirely of selected narratives about different emperors; and Zhen Dexiu’s Extended Meaning of the Great Learning (Daxue yanyi), also intended for the moral education of the emperor.

28 Sivin, Cosmos and Computation; Medicine, Philosophy, and Religion; and Science in Ancient China. See also Sivin and Lloyd, The Way and the Word.

29 Elman, On Their Own Terms.
30 Bray, “Science, Technique, Technology.”

31 Recent philosophers of science have suggested that a process of thinking with cases can be implicit in the natural as well as the human sciences. Thomas Kuhn’s argument that science students learn rules not directly but from textbook-standard experiments that he calls exemplars brings physics and chemistry education in line with that in the medical or legal professions. Researchers in a historical, evolutionary science like biology, genetics, or ecology can be seen to map their subjects into “model systems” built out of accumulating cases arranged along an axis of variation susceptible to change over time. The idea that natural objects, whether clouds or DNA, are dynamic and never entirely predictable, while fascinating for its challenge to ontologies governing conventional notions of organic versus inorganic substance, is beyond the historical models of the case addressed in this volume.