

Selections From the Penal Laws of China.

The following texts are from the Qīng dynasty (period 21) legal code, as translated into English by George Thomas Staunton and published in 1810. The Chinese title would today be transliterated Dà Qīng Lǚlì 大清律例. It means “Laws and Procedures of the Great Qīng Dynasty” and was modeled in close detail on the legal code of the preceding Míng dynasty (period 20), which in turn had great continuity with preceding Chinese legal codes.

If you wish to cite his original text, it is:

STAUNTON, George Thomas (tr.)
1810 Ta Tsing leu lee, being the fundamental laws, and a selection from the supplementary statutes, of the penal code of China. London: T. Cadell & W. Davies.
(A 1966 Taipei facsimile edition of Staunton’s book is available at the UCSD library under call number “K0 .C45478 Circ Annex.”)

Staunton’s edition contains a small number of obsolete spellings and/or press errors that I have corrected here. I have also removed some cross-references to other clauses that are irrelevant here. And I have converted statue numbers from Roman numerals to Arabic ones. If you cite the work from my rendering here, I suggest you add the line “Unpublished revision by David K. Jordan” so as not to attribute my minor changes to the original edition.

Staunton divides the code into 436 “sections,” blocked into divisions and books. The Chinese text (which can be found in the library under DS755 .C43473 volumes 211-220) is continuously numbered at the level of Staunton’s books. I have added the Chinese numbers in square brackets here, referring to numbered items as sections.

It is impressive that the Imperial code could be compact enough to fit into a single English volume of under 600 pages. That conciseness tells us something about how different the Chinese legal system was from the modern ones that we know, which of course fill whole libraries with their laws. Obviously in Imperial China, a magistrate was expected to make decisions based on the law, morality, local custom, and his reading of the individual situation. And his decisions were not intended to be precedents for anything else. The same is true for all pre-modern law codes. It is only today that information technology allows law codes to be too big for any single person to read, and every judge’s raised eyebrow to become a precedent for all other legal decision. Through most of history, life was simpler. (In fact, many of the sections of the Chinese code actually have one or more “clauses” added to them to provide examples of their application. Staunton has normally omitted these or relegated them to appendices. All are omitted here. If all were included, the book would have been somewhat larger.)

What is reprinted here is of course a tiny proportion of the whole legal code. I have selected the parts related to family relations to give you an idea of how they are represented in the late Imperial legal system. Included here are all or most of the portions underlined in the following table of contents.

- First Division: General Laws
 - Book I: Preliminary Regulations [3-4]
- Second Division: Civil Laws
 - Book I: System of Government [5]
 - Book II: Conduct of the Magistrates [6]
- Third Division: Fiscal Laws
 - Book I: Enrolment of the People [7]
 - Book II: Lands & Tenements [8]
 - Book III: Marriage [9] ([click here](#))
 - Book IV: Public Property [10-11]
 - Book V: Duties & Customs [12]
 - Book VI: Private Property [13]
 - Book VII: Sales & Markets [14]
- Fourth Division: Ritual Laws
 - Book I: Sacred Rites [15]
 - Book II: Miscellaneous Observances [16]
- Fifth Division: Military Laws
 - Book I: Protection of the Palace [17]
 - Book II: Government of the Army [18]
 - Book III: Protection of the Frontier [19]
 - Book IV: Military Horses & Cattle [20]
 - Book V: Expresses & Public Posts [21]
- Sixth Division: Criminal Laws
 - Book I: Robbery & Theft [22-24]
 - Book II: Homicide [25] ([click here](#))
 - Book III: Quarrelling & Fighting [26]
 - Book IV: Abusive Language [27] ([click here](#))
 - Book V: Indictments & Informations [28]
 - Book VI: Bribery & Corruption [29]
 - Book VII: Forgeries & Frauds [30]
 - Book VIII: Incest & Adultery [31] ([click here](#))
 - Book IX: Miscellaneous Offences [32]
 - Book X: Arrests & Escapes [33]
 - Book XI: Imprisonment, Judgment, & Execution [34-35]
- Seventh Division: Laws relative to Public Works
 - Book I: Public Buildings [36]
 - Book II: Public Ways [37]

PENAL LAWS OF CHINA: MARRIAGE

The following section on abusive language corresponds with the Third Division, Book III, statues CI to CXVII in Staunton's edition (section 9 of the Chinese edition).

SECTION 101. —Marriages: How Regulated.¹

When a marriage is intended to be contracted, it shall be, in the first instance reciprocally explained to, and clearly understood by, the families interested, whether the parties who design to marry are or are not, diseased, infirm, aged, or under age; and whether they are the children of their parents by blood, or only by adoption; if either of the contracting families then object, the proceedings shall be carried no further; if they still approve, they shall then in conjunction with the negotiators of the marriage, if such there be, draw up the marriage-articles, and determine the amount of the marriage-presents.

If, after the woman is thus regularly affianced by the recognition of the marriage-articles, or by a personal interview and agreement between the families, the family of the intended bride should repent having entered into the contract, and refuse to execute it, the person amongst them who had authority to give her away shall be punished with 50 blows, and the marriage shall be completed agreeably to the original contract. —Although the marriage-articles should not have been drawn up in writing, the acceptance of the marriage-presents shall be sufficient evidence of the agreement between the parties.

If, after the female is affianced, but previous to the completion of the marriage, her family promises her in marriage to another, the person having authority to give her away shall be punished with 70 blows; if such promise is made after the first marriage is actually completed, (that is to say, the bride is personally presented to and received by the bridegroom) the punishment shall be increased to 80 blows.

If the person who accepts such promise is, at the same time, aware of the existence of a previous contract or marriage, he shall participate equally in the punishment, and whatever marriage-presents he may have transmitted on the strength of such promise, shall be forfeited to government. —On the other hand, if ignorant thereof, he shall not be punishable, and the marriage-presents made by him shall be restored. —The bride shall remain with the bridegroom to whom she was first married or affianced, unless he declines, in which case he shall receive back the amount of his marriage-present, and the bride shall be transferred to the family of the bridegroom to whom she was secondly affianced.

¹ -The peculiar customs and usages which are adverted to in this book of the laws, will be found illustrated and exemplified in a pleasing manner, together with an interesting picture of domestic life in China, in an English translation of a Chinese novel, which was edited many years ago by the learned and ingenious Dr. Percy, Bishop of Dromore, under the title of "Hau-Kiou-Choan, or the Pleasing History." —The translation of this little work, not having been edited by the translator, and having, in part, been taken from a Portuguese version, cannot be expected to be minutely accurate, though perhaps sufficiently so for the purpose in view, and the translator of the present work has had the satisfaction of ascertaining its authenticity, by a comparison with the Chinese original, of which he has a copy now in his possession.

If the family of the intended bridegroom, after having agreed as aforesaid, repents of the contract, and makes marriage-presents to another woman, the same punishment shall be inflicted, as in the cases already mentioned. The bridegroom shall be obliged to receive his originally intended bride; and the female, to whom he is secondly affianced, shall retain the marriage-presents made to her, and be at the same time at liberty to marry another person.

If either of the contracted parties, previous to the completion of the marriage, are guilty of theft or adultery; that is to say, have been convicted of offences of such a description, the law for punishing a breach of the contract as aforesaid shall not be enforced. If the family of the bride deceives the family of the bridegroom, so as to induce them to contract a marriage, by indicating and leading them to expect a different person from the one actually named and described in the contract, the giver away of the woman shall be punished with 80 blows, and her family shall restore the marriage-presents. If the family of the bridegroom is guilty of this offence, the punishment of the contractor shall be one degree more severe, and the marriage-presents shall remain with the family of the bride. If such marriage, thus contracted through misrepresentation, is not completed, the bride or bridegroom, whom the other party had been led to expect, shall complete the marriage, Instead of the bride or bridegroom who had been deceitfully substituted; if the marriage under the aforesaid false pretences, had nevertheless been completed, it shall be sufficient that the parties be separated.

Although the parties had been lawfully affianced to each other, and the marriage presents delivered and accepted; yet if the bridegroom forcibly takes away his bride, previous to the period agreed upon, or if the bride is designedly retained and refused to the bridegroom, after such period is arrived, the contractor of the marriage in the latter case, and the bridegroom in the former case, shall be punished with 50 blows.

If, while a junior relation is at a distance from his family, and engaged either in trade, or in official employment under government, his grandfather, father, uncle, or senior cousin, binds him by a marriage-contract, and he, being ignorant thereof, happens to contract and complete a marriage with some other female during his absence, such marriage shall be held valid, and the contract made by his relations being therefore set aside, the affianced female will be at liberty to contract another marriage. If however, such absent junior member of a family had only contracted a marriage, he shall relinquish it, and in preference fulfill that contract of marriage which had been made for him by his relations, the female to whom he had personally contracted himself, being also freed from her engagement to him. —A breach of this law shall be punished with 80 blows, and compliance with these regulations shall be duly enforced by the magistrate of the district.

SECTION 102. —Lending Wives or Daughters on Hire.

Whoever lends any one of his wives, to be hired as a temporary wife, shall be punished with 80 blows, —whoever lends his daughter in like manner, shall be punished with 60 blows; the wife or daughter in such cases, shall not beheld responsible.

Whoever, falsely representing any of his wives as his sister, gives her away in marriage, shall receive 100 blows, and the wife consenting thereto, shall be punished with 80 blows.

Those who knowingly receive in marriage the wives, or hire for a limited time the wives or daughters of others, shall participate equally in the aforesaid punishment, and the parties thus unlawfully connected, shall be separated; the daughter shall be returned to her parents, and the

wife to the family to which she originally belonged; the pecuniary confederation in each case shall be forfeited to government. Those who ignorantly receive such persons in marriage, contrary to the laws, shall be excused, and recover the amount of the marriage-presents.

SECTION 103. —Regard to Rank and Priority among Wives.²

Whoever degrades his first or principal wife to the condition of an inferior wife or concubine, shall be punished with 100 blows. Whoever, during the life-time of his first wife, raises an inferior wife to the rank and condition of a first wife, shall be punished with 90 blows, and in both the cases, each of the several wives shall be replaced in the rank to which she was originally entitled upon her marriage.

Whoever, having a first wife living, enters into marriage with another female as a first wife, shall likewise be punished with 90 blows, and the marriage being considered null and void, the parties shall be separated, and the woman returned to her parents.

SECTION 104. —Ejecting From Home a Son-in-Law.³

Whoever either ejects the husband of his daughter whom he had received into his house as his son-in-law, or, receives into his house another person, as the husband of such daughter, shall be punished with 100 blows. The wife shall not be punished unless she had assisted and concurred in the ejection of her husband, in which case she shall likewise suffer 100 blows. The person, moreover, who is secondly received as a son-in-law, if privy to the illegality of the transaction, shall participate equally in the punishment, and forfeit to government the marriage-present, but otherwise, shall be excused from the punishment and the forfeiture. When the first marriage had been contracted, but not completed, the ejection of the intended son-in-law shall be punished less severely by five degrees. — The woman shall belong to her first contracted husband, and live with him separately from her father and mother.

² -The peculiar limitations under which polygamy is allowed in China require here some explanation, as it was impossible in translating the text, to distinguish by any terms strictly appropriate, the two modes of espousal which are established by the Chinese laws, and which are equally distinct in point of form as in their legal consequences.

The first or principal wife is usually chosen for the husband by his parents or senior relations, out of a family equal in point of rank and to other circumstances to his own, and is espoused with as much splendour and ceremony as the parties can afford; and the bride, when she is received into the house of the bridegroom, acquires all the rights and privileges, which, under the degraded state of the female sex in Asiatic nations, can be supposed to belong to a lawful wife.

A Chinese may afterwards lawfully espouse other wives, agreeably to his own choice, and with fewer ceremonies, as well as without any regard to equality in point of family and connexions: these wives are all subordinate to the first wife, but equal in rank among themselves. In describing this connexion, the term inferior wife has been preferred to that of hand-maid, or concubine, as there are always certain forms of espousal, and as the children of such wives have a contingent right to the inheritance.

³ -It is remarked in a note in the original Chinese, that the bridegroom, who, instead of taking home his bride to his own house, lives with her at the house of her parents, by so doing, deviates from the established forms of espousal; but that having been once so received as a son-in-law, the law protects him in the right which he had acquired, of either remaining there with his wife, or taking her away with him to a separate establishment.

SECTION 105. —Marriage During the Legal Period of Mourning.

If any man or woman enters into an equal marriage during the legal period of mourning for a deceased parent, or any widow enters into a second and equal marriage within the legal period of mourning for her deceased husband, the offending party shall be punished with 100 blows.

If it is not an equal match, that is to say, if a man takes an inferior wife from a subordinate rank, or a woman connects herself in marriage as one of the inferior wives of her husband, the punishment attending a breach of this law shall be less by two degrees.

If a widow who, during the life of her husband, had received honorary rank from the Emperor, ever marries again, she shall suffer punishment as above described, and moreover lose her rank, as well as be separated from her second husband.

Whoever knowingly contracts marriage with a widow of rank, or with any widow during the legal period of mourning, shall suffer punishment in each case proportionably less by five degrees, and the marriage-present shall be forfeited to government; if ignorant of the illegality of his conduct, he shall be exempt from punishment, and recover the marriage-present, but still be separated from his wife, as in the cases already stated.

Whoever marries on equal terms, during the period of legal mourning for a grand-father, grand-mother, uncle, or aunt, elder brother or elder sister, shall suffer 80 blows, but the marriage shall nevertheless be valid.

The marriage of, or with, inferior wives within such period shall be excused.

Whoever within the period of mourning for a father, mother, father or mother-in-law, or for a husband, completes an intended marriage to which the parties had been previously affianced, shall be punished with 80 blows.

If a widow; after the expiration of mourning for her husband, is really unwilling to enter into a second marriage; and nevertheless, her parents, grand-parents, or the parents or grand-parents of her late husband, force her to marry again, the party so compelling his daughter or grand-daughter to marry, shall be punished with 80 blows. If the widow is so compelled by any other relation in the first degree, such relation shall be punished one degree more severely; —if in a more remote degree, two degrees more severely. Neither the widow nor her second husband shall in these cases be punishable. —If she marriage is only contracted, but not completed, the widow, shall remain in her first husband's family, and be permitted to continue 'single, and she marriage present shall be returned; —if the marriage has been completed, the widow shall live with her second husband, but the marriage-present shall be forfeited to government.

SECTION 106. —Marriage During the Imprisonment of Parents.

Whoever marries a wife or a husband upon equal terms of espousal, having a father, mother, grand-father or grand-mother at the same time under confinement in prison for a capital offence, shall be punished with 80 blows; —whoever at such time receives in marriage, or becomes by marriage, a subordinate wife, shall suffer punishment less by two degrees.

Nevertheless, if any such person enters into the marriage state at such period, by the express command of his or her parent or grandparent in prison, no punishment shall ensue,

provided the usual feast and entertainment is omitted; otherwise a punishment of 80 blows shall still be inflicted.

SECTION 107. —Marriage Between Persons Having the Same Family-Name.

Whenever any persons having the same family-name intermarry, the parties and the contractor of the marriage shall each receive 60 blows, and the marriage being null and void, the man and woman shall be separated, and the marriage-presents forfeited to government.⁴

SECTION 108. —Marriage Between Persons Related by Marriage.

In general all marriages between persons who through another marriage are already related to each other in any of the four degrees, and all marriages with sisters by the same mother, though by a different father, or with the daughters of a wife's former husband, shall be considered as incestuous, and punished according to the law against a criminal intercourse with such relations.⁵

A man shall not marry his father's or mother's sister-in-law, his father's or mother's aunt's daughters, his son-in-law's or daughter-in-law's sister, or his grandson's wife's sister, on pain of receiving 100 blows for such offence.

Whoever marries his mother's brothers or mother's sister's daughter, shall receive 80 blows, and in these as well as the foregoing cases, the marriage shall be annulled, and the marriage-present forfeited.

SECTION 109. —Marriage With Relations by Blood, or With the Widows of Such Relations.

Whoever marries a female relation beyond the fourth degree, or the widow of a male relation equally remote, shall be punished with 100 blows. Whoever marries the widow of a relation in the fourth degree, or of a sister's son, shall be punished with 60 blows, and one year's banishment. —Whoever marries the widow of any nearer relation, shall be punished according to the law against incestuous connexions with such persons. Nevertheless, when the connexion had been broken by a divorce, or an intervening marriage with a stranger, the offence shall in general be only punished with 80 blows.

Whoever receives in marriage any of his father's or grandfathers former wives, or his father's sisters, shall, whether they had been divorced or re-married, in all cases suffer death, by being beheaded. Whoever marries his brother's widow, shall be strangled.

⁴ -The most usual term in the Chinese language for describing "the people or nation," is *Pe-sing*, or "the hundred names." [Bǎixìng 百姓 —DKJ] Although the names of families in China are at present somewhat more numerous, they are very few in proportion to the immense population, and the restrictions imposed by this law upon marriage must therefore be often embarrassing and inconvenient, however little the choice and inclination of the parties themselves, may under any circumstances, be consulted.

⁵ -The book of the laws referred to in this and the following section is contained in the criminal division of the code, and entitled, *Incest and Adultery*.

The foregoing cases, in general apply to first wives only, and the punishment of marrying the inferior wives of such relatives as aforesaid, shall be less in each case by two degrees.

Whoever marries any female relation in the fourth, or any nearer degree, shall be punished according to the law concerning incest, and all such incestuous marriages shall be null and void.

SECTION 110. —Marriage of Officers of Government into Families Subject to Their Jurisdiction.

If any officer belonging to the government of a city of the first, second, or third order, marries, while in office, the wife or daughter of any inhabitant of the country under his jurisdiction, he shall be punished with 80 blows.

If any officer of government marries the wife or daughter of any person having an interest in the legal proceedings at the same time under his investigation, he shall be punished with 100 blows, and the member of the family of the bride, who gave her away, shall be equally punishable. The woman, whether previously married or not, shall be restored to her parents, and the marriage-present forfeited in every case to government.

If the officer of government accomplishes the marriage by the force or influence of his authority, his punishment shall be increased two degrees, and the family of the female, being in such a case exempt from responsibility, she shall, if previously single, be restored to her parents; and if previously married, to her former husband, the marriage-present shall, not in either case be forfeited.

If any officer of government, instead of marrying the female himself in any of the above cases, gives her in marriage to his son, grandson, younger brother, nephew, or other person belonging to his house-hold, he shall be liable to the same punishment as aforesaid, but neither the bride nor the bridegroom shall suffer for such offence.

When the marriage is a compensation for some unjust decision on a subject under the magistrate's investigation, the punishment shall be increased as far as the law, applicable to such a deviation from justice, may authorize.

SECTION 111. —Marriage with Absconded Females.

Whoever receives and marries a female criminal, who had absconded from the fear of punishment, shall, whether she had been previously married or not, be punishable to the full extent of the crime such female had committed, setting aside only the aggravation of two degrees to which she is liable from her being a fugitive, and with a reduction of one degree, when the offence of the female is of a nature to be punishable with death. The marriage shall moreover be annulled, and the parties separated, unless the female was previously single, and obtains the benefit of a special or general pardon. When the person marrying a criminal fugitive had been ignorant of the circumstance of her being such, he shall be excused.

SECTION 112. —Forcible Marriage of a Free Man's Wife or Daughter.

Whoever, confiding in his power and influence, seizes by violence the wife or daughter of a free-man, and carries her away to make her one of his wives, shall suffer death, by being strangled after the usual period of confinement.

If the female was single, she shall be returned to her parents or relations; and, if previously married, to her lawful husband. Whoever, instead of marrying such female himself, gives her in marriage to his son, grand-son, brother, nephew, or other person of his household, shall be liable to the same punishment, and the parties shall be separated, as in the former case; but the husband, not being the contriver of the offence, shall not be punishable.

SECTION 113. —Marriage with Female Musicians and Comedians.

If any officer or clerk of government, either in the civil or military department, marries, as his first or other wife, a female musician or comedian, he shall be punished with 60 blows, and the marriage being null and void, the female shall be sent back to her parents and rendered incapable of returning to her profession. The marriage-present shall be forfeited to government.

If the son or grand-son, being the heir of any officer of government having hereditary rank, commits this offence; he shall suffer the same punishment, and whenever he succeeds to the inheritance, his parental honours shall descend to him under a reduction of one degree.

SECTION 114. —Marriage of Priests of Foe or Tao-sse.⁶

[This refers to Buddhist and Daoist priests. Foe is clearly fó 佛 (Buddha). Tao-sse is probably dàoshì 道士 (Daoist priest). —DKJ]

If any priest of Foe or Tao-sse takes a first or inferior wife, he shall be punished with 80 blows, and expelled from the order to which he belonged. The member of the family of the female who gave her away in marriage shall be equally punishable; the marriage shall be null and void, the female sent back to her family, and the marriage-present forfeited to government; all the other priests of the same establishment who were privy to the offence, shall be subject to the same corporal punishment, but not to expulsion from their order; if ignorant of the offence having been committed, they shall not suffer punishment in any respect.

If a priest solicits a woman in marriage, under pretence of obtaining a wife for his relations or servants, and afterwards appropriates the female to himself, the offence shall be punished according to the law prohibiting incestuous intercourse and adultery.

SECTION 115. —Marriage Between Free Persons and Slaves.

If any master of a family solicits and obtains in marriage for his slave, the daughter of a free-man, he shall be punished with 80 blows; —the member of the family who gives away the female in marriage shall suffer the same punishment, if aware that the intended husband is a slave, but not otherwise.

⁶ -See Section 42. and 77 relative to these orders of priesthood in China. [These passages are not included in this extract. —DKJ]

A slave soliciting and obtaining a daughter of a free-man in marriage, shall also be punished in the same manner; and if the master of the slave contents thereto, he shall suffer punishment less by two degrees; but, if he moreover receives such free-woman into his family as a slave, he shall be punished with 100 blows.

Likewise, whoever falsely represents a slave to be free, and thereby procures such slave a free husband or wife, shall suffer 90 blows. In all these cases the marriage shall be null and void, and the parties replaced in the ranks they had respectively held in the community.

SECTION 116. —Law of Divorce.

If a husband repudiates his first wife, without her having broken the matrimonial connexion by the crime of adultery, or otherwise; and without her having furnished him with any of the seven justifying causes of divorce, he shall in every such case be punished with 80 blows. Moreover, although one of the seven justifying causes of divorce should be chargeable upon the wife, namely, (1) barrenness; (2) lasciviousness; (3) disregard of her husband's parents; (4) talkativeness; (5) thievish propensities; (6) envious and suspicious temper; and, lastly, (7) inveterate infirmity; yet, if any of the three reasons against a divorce should exist, namely, (1) the wife's having mourned three years for her husband's parents; (2) the family's having become rich after having been poor previous to, and at the time of, marriage; and, (3) the wife's having no parents living to receive her back again; in these cases, none of the seven aforementioned causes will justify a divorce, and the husband who puts away his wife upon such grounds, shall suffer punishment two degrees less than that last stated, and be obliged to receive her again.

If the wife shall have broken the matrimonial connexion by an act of adultery, or by any other act, which by law not only authorizes but requires that the parties should be separated, the husband shall receive a punishment of 80 blows, if he retains her.

When the husband and wife do not agree, and both parties are desirous of separation, the law limiting the right of divorce shall not be enforced to prevent it.

If, upon the husband's refusing to contest to a divorce, the wife quits her home and absconds, she shall be punished with 100 blows, and her husband shall be allowed to sell her in marriage; if, during such absence from her home, she contracts marriage with another person, she shall suffer death, by being strangled, after the usual period of confinement.

If, previous to the expiration of a period of three years after a husband had deserted and been no more heard of by his wife, such wife, without giving notice at a tribunal of government, should likewise quit her home and abscond, she shall be punished with 80 blows; and the punishment shall be increased to 100 blows, if she should moreover presume to contract another marriage within such period..

In all the foregoing cases, the first wife only is intended to be adverted to, but the laws in every instance shall be applied in cases of the inferior wives, upon a reduction being made in the punishment to the extent of two degrees for each offence.

To render the act of the wife a second marriage, there must have been a person to give her away to the new husband, and a delivery of marriage-presents; otherwise, it is to be considered simply as a case of adultery.

If a female slave deserts from her master's house, she shall be punished with 80 blows, or with 100 blows if she contracts a marriage during such absence, and in both cases she shall be restored to her master:

Whoever harbours a fugitive wife or slave, or marries them knowing them to be fugitives, shall participate equally in their punishment, except in capital cases, when the punishment shall be reduced one degree. The marriage-present in all such cases is forfeited to the government. When, however, the person harbouring or marrying the fugitive is really ignorant of her criminality, he shall not be subject to any punishment, and shall be even entitled to demand the return of the marriage-present.

In the foregoing cases, if the giver-away in marriage of a fugitive wife, in the absence of her lawful husband, is an elder relation in the first degree of such female, the punishment attending such unlawful marriage shall be solely inflicted on the relation, and the female shall suffer, without aggravation, the punishment to which she was liable as a fugitive.

If the giver-away in marriage of such female was any more remote elder relation, the relation shall still be punished as in the last instance, but the female and the person marrying her, shall likewise be punishable, as accessories to the aggravated offence. If, in such cases, the proposal of the marriage is shown to arise from the parties themselves, they shall be punished as principals, and the giver-away of the female as an accessory only; but the punishment of the latter, although in extreme cases nominally capital, shall never exceed 100 blows and perpetual banishment to the distance of 3000 lee.

SECTION 117. —Giving in Marriage Unlawfully

In all marriages contracted contrary to law, if the giver-away of the bride, or the contractor of the marriage on the part of the husband, is the paternal or maternal grand-father, grand-mother, father, mother, paternal uncle or aunt, or paternal elder male or female cousin, the punishment denounced by law shall be solely inflicted on such relations, and the parties themselves shall not be held responsible.

When the giver-away of the wife, or contractor of the marriage as aforesaid, is a more remote relation of the party marrying, but is still the chief agent in procuring the unlawful marriage, he or she shall be punished as a principal, but the husband and wife shall likewise participate in the punishment of the offence, as accessories.

If, on the contrary, the unlawful marriage contracted as above originated with the parties themselves, they shall be punished as principals in the offence, and those who contracted the match for them, as accessories only.

When, according to the application of these rules, the parties to a marriage are punishable as principals with death, the law shall be carried strictly into effect; but, when the persons who contracted an unlawful marriage in behalf of others, are nominally liable to capital punishment, it shall be mitigated one degree; those, however, who are punished as their accessories, shall still suffer as accessories to a capital offence.

Moreover, if the husband and wife, in consequence of having been previously terrified and threatened by their elder relations, had entered into an unlawful marriage, which they had not themselves devised or originated; or if the husband was not twenty years of age complete,

and the wife had never previously quitted her parent's roof, the contractors on each side of the unlawful marriage shall, under such circumstances, be alone punishable and responsible;

When any unlawful marriage has been only contracted, but not completed, the punishment of the responsible parties shall always be less by five degrees.

The negotiator of any unlawful marriage, knowing it be unlawful, shall suffer punishment within one degree of that inflicted on the responsible party, but otherwise shall be, excused.

In general, in every case in which it is directed that an unlawful marriage shall be annulled, the parties shall be placed in the same condition as that in which they were previous to the marriage; and although any general act of pardon should intervene, and occasion a remission of the punishment denounced by law against them as public offenders, such pardon shall be no bar to the divorce.

In general also, when the party giving the marriage-present is, at the same time, aware of the unlawfulness of the transaction, such present shall be forfeited to government; but otherwise it shall be restored to the giver.

PENAL LAWS OF CHINA: HOMICIDE

The following section on homicide corresponds with Staunton's Division VI, Book II, Sections CCLXXXII-CCLXXXVI, pages 303-308 (first portion of section 25 of the Chinese edition).

SECTION 282. —Preconcerted Homicide; Murder.⁷

In every case of persons preconcerting [= planning —DKJ] the crime of homicide, whether, with or without a design, against the life of a particular individual, the original contriver shall suffer death, by being beheaded, after the usual period of confinement. All the accessories to the contrivance, who likewise contribute to the perpetration of the preconcerted homicide or murder, shall suffer death, by being strangled, after being confined until the usual period.

The other accessories not actually contributing to the perpetration of the murder, shall be punished with 100 blows, and perpetual banishment to the distance of 3000 *lee*. In these cases, sentence is not to be pronounced finally, until the decease of the person mortally wounded. When the wounds inflicted in consequence of a previous design to commit murder, do not prove mortal, the original contriver of the deed shall be strangled, after remaining in confinement the usual period. The accessories contributing to the perpetration, shall be punished with 100 blows, and perpetual banishment to the distance of 3000 *lee*. The other accessories shall be punished with 100 blows, and three years banishment. [One *li* 里 (or “lee”) is about half a kilometer. —DKJ]

When a homicide has been preconcerted as aforesaid, but no blow struck, the original contriver shall be punished with 100 blows and three years banishment: —the accessories to such contrivance shall be each punished with 100 blows.

The original contriver shall suffer punishment as a principal, though not otherwise contributing in any manner to carry the design into effect; but the accessories to the contrivance who are not guilty of any subsequent overt act, shall suffer punishment less by one degree than those of the accessories, who acted in some respects upon the contrivance, although they did not personally contribute to the perpetration of the deed.

Those who commit murder for the sake of plunder shall, as in the case of a robbery, all of them be beheaded, without any distinction whatever between principals and accessories

SECTION 283. —Murder of an Officer of Government.

When an ordinary officer of government is guilty of designing to kill an officer invested with peculiar or extraordinary powers by the Emperor; when a private inhabitant of a district is guilty of designing to kill the governor or supreme officer of the same; when a private soldier is guilty of designing to kill his commanding officer; and, lastly, when an official attendant of a public office or tribunal, is guilty of designing to kill an officer of the fifth, or any superior rank: —in all three cases, if the individual entertaining such criminal design and contrivance, is the original contriver, he shall, though a blow had not been struck in execution thereof, be punished

⁷ -The distinguishing character of the crime which is the subject of this section, appear to be previous contrivance. In respect to the crime of killing, with an intent to kill, noticed in Section 290, every idea of combination is there excluded, and the design is supposed to have originated at the moment, or nearly so, of its execution.

with 100 blows, and banishment to the distance of 2000 *lee*. If a blow is struck, so as more or less to wound, the principal offender shall be strangled; if the murder is actually perpetrated, all the parties thereto shall be be-headed. In the other cases the punishment of accessories shall be one degree less severe than that of their respective principals. All persons not holding offices or rank under government, when capitally convicted under this law, shall be executed immediately; but the execution of officers of government shall not take place till after the usual period of confinement.

Accessories to the contrivance, who are not guilty of any subsequent overt act; attendants of tribunals and public offices, guilty of designing to kill an officer of government of the sixth or any inferior rank; and, lastly, private inhabitants or soldiers, guilty of designing to kill any officers to whose jurisdiction they are not subject, shall only be punished as in ordinary cases *.⁸

SECTION 284. —Parricide.

Any person convicted of a design to kill his or her father or mother, grand-father or grand-mother, whether by the father's or mother's side; and any woman convicted of a design to kill her husband; husband's father or mother, grand-father or grand-mother, shall, whether a blow is, or is not struck in consequence, suffer death by being beheaded. In punishing this criminal design, no distinction shall be made between principals and accessories, except as far as regards their respective relationships to the person against whose life the design is entertained. If the murder is committed, all the parties concerned therein, and related to the deceased as above-mentioned, shall suffer death by a slow and painful execution. If the criminal should die in prison, an execution similar in mode shall take place on his body. The accessories more distantly related, shall be punished according to the law particularly applicable to the cases of persons so related; and those accessories who are not related at all, shall be punished as similar offenders would be in ordinary cases.

The principal in a design to kill any other senior relation within the four degrees of connexion and consanguinity, shall, if no blow is struck, be punished with 100 blows, and perpetual banishment to the distance of 2000 *lee*. The accessories to a design to kill a person so related to them, shall be punished with 100 blows, and three years banishment. If a blow is struck so as to wound, the principal shall be strangled, and the rest punished in the degree and proportion provided in ordinary cases. If the intended murder is actually committed, all such of the principals and accessories, as are related as above described, to the deceased, shall be beheaded.

The punishment of entertaining a design to kill a junior relation within any of the aforesaid degrees of connexion or consanguinity, shall be two degrees less severe than that elsewhere provided in the case of killing with an intent to kill, such junior relation. The punishment of wounding with an intent to kill, such junior relation, shall be less severe than that of killing, by one degree; when the murder is actually perpetrated, the punishment shall be the same as that already stated to have been elsewhere provided.⁹

⁸ -That is to say, in cases of a design to kill a stranger and an equal, under circumstances which are not legally considered either to palliate or to aggravate the guilt of such design. The meaning however of an expression which occurs so frequently, must already have been apparent to the reader from the content.

⁹ -See Section 317 in the following book, entitled, "Quarrelling and Fighting." [The section is not included in this extract. —DKJ]

Any slave or hired servant designing to murder, or murdering his or her master, or any relation of his or her master, living under the same roof, shall be liable to the same punishment as has been provided in the case of a son or grandson being guilty of such a criminal act or design.

SECTION 285: —Killing an Adulterer.

When a principal or inferior wife is discovered by her husband in the act of adultery, if such husband at the very time that he discovers, kills the adulterer, or adulteress, or both, he shall not be punishable. If in such a case, he does not kill the adulteress, she shall be punished according to the law applicable thereto, and afterwards sold in marriage. The money paid for her, shall be a forfeiture to government.

If there had not been an actual commission of adultery, but only such an intercourse as implied a design to commit that crime; or if the adulterer and adulteress had surrendered themselves to the husband; or if, lastly, they had removed from the apartment where the adultery had been committed the husband who kills either of the guilty parties under any such circumstances, shall not be justified or protected by this law.

If the guilty wife shall contrive with the adulterer to procure the death of her husband, she shall suffer death by a slow and painful execution, and the adulterer shall be beheaded. —If the adulterer kills the husband, without the knowledge or connivance of the wife, she shall suffer death by being strangled.

SECTION 286. —Widows Killing Their Deceased Husband's Relations.

If any widow, whether married or not to a second husband, is guilty of killing her deceased husband's father, mother, grand-father or grand-mother, she shall suffer the same punishment as if guilty of killing the said relations, while such husband was still living; the case of widows who had been divorced from their former husbands, is the only one in which this law shall not take effect.

A servant or slave killing the person who had been, but was no longer his master, shall only be punished as in ordinary cases of murder, except in the instance of a slave who had been manumitted by his master; where, the party being bound by such an obligation, shall be liable to the aggravated punishment, which is applicable to the case of slaves killing their masters, and is elsewhere provided.

SECTION 287. —Murder of Three or More Persons in One Family.

Any person who is guilty of killing, by previous contrivance, intentionally but without premeditation, or in the course of a robbery or house burning three or more persons, whereof none were guilty of capital offences, and all of whom were relations in the first degree, or inmates of one family; and also any person who is guilty of mangling and dividing the limbs, and thus in a cruel and revengeful manner killing any individual, shall, when convicted of being a principal offender, suffer death by a slow and painful execution. The property of such principal offender shall be forfeited to the use of the suffering family, and his wives and children shall be banished perpetually to the distance of 2000 *lee*. Accessories, contributing to the perpetration of the crime, shall be beheaded. The other accessories shall be punished as accessories in ordinary cases of murder. Where the original design had been to kill one person only, but from any

subsequent cause three or more are killed, the original contriver, if not contributing to the execution shall be beheaded; and the individual who first proposed upon the spot, the killing of three or more persons, shall be executed as the principal, agreeably to this law.

PENAL LAWS OF CHINA: ABUSIVE LANGUAGE

The following section on abusive language corresponds with Saunton's Sixth Division, Book IV, Sections CCCXXVII-CCCXXXI, pages 356-358 (part of statute 27 of the Chinese edition).

SECTION 327. —Abusive Language from a Slave to his Master.

A slave guilty of addressing abusive language to his master shall suffer death, by being strangled at the usual period.

If guilty of addressing abusive language to his master's relations in the first degree, or to his master's maternal grandfather or grandmother, he shall be punished with 80 blows, and two years banishment: —If addressing abusive language to his master's relations in the second degree, the punishment shall be 80 blows; if in the third degree, 70 blows; if in the fourth degree, 60 blows.

A hired servant addressing abusive language to his master, shall be punished with 80 blows, and two years banishment; if to his master's relations in the first degree, or maternal grandfather or grandmother; his punishment shall amount to 100 blows; if to his master's relations in the second degree, to 60 blows: if to the relations in the third degree, to 50 blows; and if to the relations in the fourth degree, to 40 blows. —In these cases, as well as others, the abusive language must have been heard by the person to whom it was addressed, and such person must always be the complainant.

SECTION 328. —Abusive Language to an elder Relation.

Any person who is guilty of addressing abusive language to an elder relation in the fourth degree; equi-distant from the parent stock, shall be punished with 50 blows: if to a relation in the third degree, under similar circumstances, with 60 blows: and if to a relation as aforesaid, in the second degree, with 70 blows; but when such relation is also one or more generations nearer to the parent stock, the punishment shall be more severe, in each case, than above provided, by one degree. Whoever addresses abusive language to his elder brother or sister, shall be punished with 100 blows: whoever abuses his, paternal uncle or aunt, or his maternal grandfather or grandmother, shall be punished one degree more severely than in the case last mentioned: —but, as it has been stated in the preceding articles, the law can only be enforced when the person to whom the abusive language was addressed, actually heard it, and is himself the complainant.

SECTION 329. —Abusive Language to a Parent, Paternal Grandfather or Grandmother.

A child or grandchild who is guilty of addressing abusive language to his or her father or mother, paternal grandfather or grandmother; a wife who is guilty of addressing abusive language to her husband's father or mother, paternal grandfather or grandmother, shall in every case suffer death, by being strangled; provided always however, that the persons abused, themselves complain thereof to the magistrates, and had themselves heard the abusive language which had been addressed to them.

SECTION 330. —Abusive Language From a Wife to Her Husband's Relations.

A principal or inferior wife who is guilty of addressing abusive language to any of her husband's relations within the four degrees, shall be liable to the same punishment as her husband would have been for using towards such persons the same language. —An inferior wife abusing her husband or husband's principal wife, shall be punished with 80 blows. —A husband abusing his wife's father, or mother, shall be liable to a punishment of 60 blows; but in all cases such abusive language must, as already observed, have been heard and complained of by the parties to whom it was addressed.

There is no clause respecting abusive language addressed by a principal wife to her husband, as the interposition of the laws can scarcely be supposed to be necessary; yet if such a case should occur, the magistrates may lawfully award a punishment of 50 blows, according to the law respecting offences against propriety.

SECTION 331. —Abusive Language Addressed by a Widow to Her Deceased Husband's Parents.

If any principal or inferior wife is guilty of addressing abusive language to her husband's father or mother, paternal grandfather or grandmother, after the death of such husband, and even after having entered into a second marriage, she shall (except in the case of her having been divorced from such former husband,) be liable to the same punishment for each offence, as if such husband were still living,

A slave addressing abusive language to his former master, shall only be punished as in ordinary cases, the connexion between the parties having been broken by the transfer to another master; but a slave addressing abusive language to the master who had manumitted or released him, shall be liable to the same punishment as he would have been if he had continued in such master's service.

PENAL LAWS OF CHINA: INCEST AND ADULTERY

The following section on incest and adultery corresponds with Staunton's Sixth Division, Book VIII, Sections CCCLXVI-CCCLXXXV, pages 404-410 (section 31 of the Chinese edition).

SECTION 366. —Criminal Intercourse in General.

Criminal Intercourse by mutual consent with an unmarried woman, shall be punished with 70 blows; if with a married woman, the punishment shall be 80 blows.

Deliberate intrigue with a married or unmarried woman shall be punished with 100 blows.

Violation of a married or unmarried woman; that is to say, a rape, shall be punished with death by strangulation.

An assault with an intent to commit a rape, shall be punished with 100 blows, and perpetual banishment to the distance of 3000 *lee*. In these cases however, the conviction of the offenders must be founded on decisive evidence of force having really been employed.

Criminal intercourse with a female under twelve years of age, shall be punished as a rape in all cases.

In cases of criminal Intercourse by previous agreement, or by any intrigue, the man and woman shall be esteemed equally guilty; and if any male or female child be the fruit of such connexion, it shall be supported at the expense of the father; the mother shall either be sold in marriage or remain with her husband, according to his choice; but if the husband is guilty of selling his wife in marriage to the adulterer, the parties to such an illicit agreement shall be respectively punished with 80 blows; the woman shall be sent back to her family, and the price paid for her, forfeited to government. —The woman upon whom a rape is committed shall not be liable to any punishment.

Persons aiding and assisting, or conniving at the meeting of the parties guilty of a criminal intercourse as aforesaid, shall suffer the punishment next in degree, as usual in the case of accessories.

Persons discovering a criminal Intercourse, and afterwards submitting to a compromise, by which the same is concealed, shall suffer the punishment due to the offenders, reduced two degrees.

A person charged with a criminal connexion, shall not be convicted unless positively proved to have been on the spot, where the fact was fated to have taken place.

When, however, a woman is found with child, she shall be liable to the penalties of this law, though the father should not be discoverable.

SECTION 367. —Conniving at, or Consenting to a Criminal Intercourse.

In all cases of a husband consenting to, or conniving at, the adultery of the principal or any other of his wives, the husband, the adulterer, and the adultress, shall each be punished with 90 blows.

Any individual compelling his principal or inferior wife, or any female educated under his roof as an adopted daughter, to engage in a criminal Intercourse, shall be punished with 100 blows, and the adulterer or fornicator shall be punished with 80 blows; but the woman shall be considered innocent, and sent back to her parents or family.

Any person who consents to, or connives at the compulsion of his wives or adopted daughters in the manner aforesaid, or who compels his own daughters, or the wives of his sons or grandsons, to engage in a criminal intercourse, shall be punished as above stated.

Any person who parts with his wife and transfers her to another for a pecuniary consideration, shall, as well as also the purchaser, and the wife, if consenting to the transfer, undergo the punishment of 100 blows, and the wife shall be sent back to her family. —The money paid for the transaction shall be forfeited to government.

If the wife and the person proposing the purchase, shall have combined together to oblige the husband to consent to a separation from her, and no corrupt motive be imputable to him in the transaction, he shall not be punished, but the wife, and the person whom she proposes to herself as a husband, shall be respectively condemned to suffer 60 blows and one year's banishment: the banishment, in the case of the woman, shall be commuted for a fine, and she shall either remain in her first condition, or be sold in marriage, at the choice of the first husband.

If the case relates to any other wife except the first, the punishment of the parties shall be reduced in every instance one degree.

Persons aiding, assisting, or negotiating in the business, shall be punished one degree less severely than the principals.

When the husband discovers the wife to have committed adultery, and sells her in marriage to the adulterer, he shall be punished with 100 blows, the other parties, as already stated.

SECTION 368. — Incest; or Criminal Intercourse Between Relations.

A criminal intercourse between relations more remote than the fourth degree, or with the wives of such remote relations, shall be punished with 100 blows: —if a rape is committed, the offender shall be beheaded.

A criminal intercourse with relations in the fourth degree; with a wife's former husband's daughters, or with sisters by the same mother, but by different fathers, shall be punished with 100 blows and three years banishment:

When in such cases a rape is committed, the offenders shall be beheaded.

A criminal intercourse with a grandmother's sisters, cousins by the father's side, the wives of brothers or the wives of nephews, shall be punished with death by being strangled immediately upon conviction. —If a rape is committed, the party offending shall be beheaded.

A criminal intercourse with a father's or grandfathers inferior wife, with a father's sisters, or father's brother's wives, or the wife of a son or grandson, shall be punished with death, by being beheaded immediately upon conviction.

In general in the cases of inferior wives, the punishment shall be reduced one degree, unless otherwise provided.

SECTION 369 —Accusing an Elder Relation of Adultery.

When a wife falsely accuses her father-in-law or her elder brother-in-law, of having obliged her to consent to an incestuous intercourse, she shall suffer death by being beheaded.

SECTION 370. —Criminal Intercourse between Slaves or Servants, and their Master's Wives.

All slaves or hired servants who have been guilty of a criminal intercourse with their master's wives or daughters, shall be beheaded immediately after conviction: when guilty of a criminal intercourse with their master's female relations in the first degree, or with the wives of the male relations of their masters in the same degree, they shall be strangled after remaining in prison the usual period. In the above cases, the punishment of the woman, if consenting, shall be less, only by one degree. When guilty of a criminal intercourse with their master's more distant female relations, or with the wives of his more distant male relations, they shall be punished with 100 blows, and perpetual banishment to the distance Of 2000 *lee*.

If guilty of committing a rape upon the latter persons, they shall be beheaded after remaining in prison the usual period: except in the cases of rape the punishment of a criminal intercourse with any of the inferior wives, shall generally speaking be less than in the case of principal wives by one degree.

SECTION 371. —Criminal Intercourse between Officers of Government and Females under their Jurisdiction.

In all cases of civil or military officers of government and of their official clerks and attendants, being guilty of a criminal intercourse with any the wives or daughters of the inhabitants. of the country under their jurisdiction, the punishment shall be two degrees more severe than in ordinary cases between equals; —they shall also be deprived of their offices and employments, and moreover rendered incapable of returning afterwards to the public service.

The woman, if consenting, shall be punished for such consent, only as in ordinary cases. If such officers, or any of the persons serving under them, are guilty of having a criminal intercourse with a female convict who is under confinement in prison, they shall be punished with 100 blows and three years banishment: the female convict shall not suffer any aggravation of the punishment to which she had previously been liable: when in such cases violence is offered, the offending party shall be strangled.

SECTION 372. —Criminal Intercourse during the Period of Mourning.

All persons who, during the period allotted to mourning for a parent or husband; or who, being attached to either of the acknowledged sacred orders, in the characters of priests or priestesses, are guilty of any species of criminal intercourse, shall suffer punishment two degrees more severely than in ordinary cases between equals; the other party to any such, criminal intercourse shall be punished only in the usual degree. .

SECTION 373. —Criminal Intercourse Between Free Persons and Slaves.

A slave who is in any case guilty of a criminal intercourse with the wife or daughter of a freeman, shall be punished, at the least, one degree more severely than a freeman would have been under the same circumstances.

On the contrary, the punishment of a freeman for having criminal intercourse with a female slave, shall be one degree less than in ordinary cases.

When both parties are slaves, the criminal intercourse shall be punished in the same manner as in the case of free persons.

SECTION 374. —Officers of Government Frequenting the Company of Prostitutes and Actresses.

Civil or military officers of government, and the sons of those who possess hereditary rank, when found guilty of frequenting the company of prostitutes and actresses, shall be punished with 60 blows.

All persons who are guilty of negotiating such criminal meetings and intercourse, shall suffer the punishment next in degree.

SECTION 375. —Strolling Players.

All strolling players who are guilty of purchasing the sons or daughters of free persons, in order to educate them as actors or actresses; or who are guilty of marrying or adopting as children such free persons, shall, in each case, be punished with 100 blows.

All persons who knowingly sell free persons to such strolling players, and all females born of free parents, who voluntarily intermarry with them, shall be punishable in the manner aforesaid.

The person who negotiates the transaction shall in each case suffer the punishment next in degree; the money paid shall always be forfeited to government, and the females shall be sent back to their parents or families.