HONG KONG.

CORRESPONDENCE

RESPECTING THE

ALLEGED EXISTENCE

OF

CHINESE SLAVERY

IN

HONG KONG.

Presented to both Houses of Parliament by Command of Her Majesty,
March 1882.

LONDON:
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1882.

[C.—3185.] *Price* 1*s.* 4*d.*

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Q 2893. Wt. 8661.

No. 1.

GOVERNOR J. POPE HENNESSY, C.M.G., to the RIGHT HON. SIR MICHAEL HICKS BEACH, BART. (Received March 4, 1880.)

Government House,
Hong Kong, January 23, 1880.

SIR,

ON the 6th of last October (1879) Chief Justice Sir John Smale, in passing sentence on some Chinese prisoners, convicted in one case of purchasing a female for purposes of prostitution, and, in other cases, of kidnapping children, delivered an able and elaborate judgment on the existence of slavery in Hong Kong. I have the honour to lay before you a copy of that judgment, together with a copy of a letter dated the 20th of October from the Chief Justice to the Colonial Secretary on the same subject.

2. In the early part of the judgment the Chief Justice declared that "two specific "classes of slavery exist in this Colony, to a very great extent, viz., so-called domestic "slavery and slavery for the purposes of prostitution." Towards the end of his judgment he pointed out that Imperial Acts of Parliament as well as local ordinances rendered illegal any form of slavery in this Colony; he expressed the opinion that all the officers of the Crown in Hong Kong (including himself) had hitherto failed in their duty in this matter, and he said the number of slaves in Hong Kong had been estimated at from 10,000 to 20,000. His Honour, however, was pleased to add: "Of this I feel "assured, by his previous acts, that his Excellency the Governor will actively promote "all such proceedings as will tend to enforce the laws against slavery here, so that this "Colony may become as free from that taint as any other Colony under the British "Crown by enforcing laws already in existence, and, if necessary, by passing laws, how-"ever stringent, that shall free this Colony effectually from all slavery."

3. I cannot exactly say what previous acts of mine the Chief Justice had in his mind when he thus spoke, but it is true that I had, from time to time, made some efforts to expose and check a form of slavery, and of buying and selling children, in connection with the brothel system in Hong Kong, as well as to punish, according to law, those who were guilty of detaining children from their parents on the ground that they had purchased them for adoption.

4. Six or seven months after my arrival in this Colony I discovered that abuses existed in connection with the legalized brothel system. Two Chinese women were killed in October 1877 by falling from the roof of a house when chased by an officer of the Registrar General's Department. In the evidence before the Coroner* I observed that a person paid by the Department to induce Chinese women to prostitute themselves and then inform upon them, had sworn that one of the deceased women, Tai Yau, had kneeled before him and begged for mercy, saying she had been previously fined $100 and had had to sell her child to pay the fine.

5. My attention being drawn to such a circumstance, it was clearly my duty to institute an inquiry and to report the facts to Her Majesty's Government.

Accordingly, in writing to the Earl of Carnarvon (Despatch of the 6th of December 1877),† I quoted the evidence at the Coroner's inquest, and added: "I am "now informed that the Commissioners have obtained from the records of the Registrar "General's Department and from Mr. Smith's evidence the clearest proof that this "practice of selling human beings in Hong Kong was well known to the Department. "One of the records has been shown to me in which a witness swears, 'I bought the "'girl, Chan Tsoi Lim, and placed her in a brothel in Hong Kong,' and on that particular "piece of evidence no action was taken by the Department.

"Of course this branch of the subject, now that the truth has become known to the "Commissioners and the public, will be thoroughly investigated."

6. In my Despatch of 17th March 1879,‡ I transmitted the Report and proceedings of the Commission; and in my Despatch of the 19th of March 1879,§ I quoted a sentence or two in which the Commissioners refer to the sale of Tai Yau's child to pay a fine in 1876. The accompanying extracts from the printed evidence show that the Registrar General's Department was not ignorant of the fact that Chinese women were purchased for the Hong Kong brothels, and that the head of the Department thought it useless to try and deal with the question of the freedom of such women.

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* Vide p. 6 of (H.C. No. 118), March 1880.
† No. 4 of [C. 3093], August 1881.
‡ No. 13 of [C. 3093], August 1881.
§ No. 14 of [C. 3093], August 1881.

Mr. Cecil Clementi Smith, in his evidence on the 1st of December 1877, said: "They "are either bought or engaged at those places (Canton or Macao) * * * "I think it useless to try and deal with the question of the freedom of Chinese prosti- "tutes by law or by any Government regulations." That the buying and selling was not confined to places outside the Colony is clear from the evidence of other witnesses and from the notes of cases taken by the Registrar General himself. It will also be seen that where the persons guilty of such offences were sometimes punished it was generally for a minor offence, such as not keeping a correct list of women or for an assault.

7. The question of how far British law or Government regulations can deal with the freedom of these women is not the only question raised in the report and proceedings of the Commission. I am aware that the Naval and Military Authorities have been and are still in communication with you on the subject generally, and that I cannot expect your final decision for some time. But I believe I only anticipate your instructions, in giving orders, that the law, whatever may be the consequences to the brothel system, should be strictly enforced so as to secure the freedom of these women.

8. On this branch of the subject you will observe that in his letter of the 20th of October 1879 the Chief Justice says:—

"I cannot understand why such classes should as classes increase in this Colony at all, unless it be that (in addition to the Chinese demand for domestic servants and brothels) there be an increased foreign element increasing the demand.

"I fear that a high premium is obtained by persons who kidnap girls in the high prices which they realize on sale to foreigners as kept women.

"No one can walk through some of the bye-streets in this Colony without seeing well dressed China girls in great numbers whose occupations are self-proclaimed, or pass those streets, or go into the schools in this Colony, without counting beautiful children by the hundred whose Eurasian origin is self-declared. If the Government would inquire into the present condition of these classes, and still more, into what has become of those women and their children of the past, I believe that it will be found that in the great majority of cases the women have sunk into misery, and that of the children the girls that have survived have been sold to the profession of their mothers, and that, if boys, they have been lost sight of or have sunk into the condition of the mean whites of the late slave-holding states of America.

"The more I penetrate below the polished surface of our civilization the more convinced am I that the broad undercurrent of life here is more like that in the Southern States of America when slavery was dominant than it resembles the all-pervading civilization of England.

"Nothing less powerful than a Commission with legislative powers to investigate and to examine on oath will ever lay bare the evil which, from suggestions I have received, I believe to underlie our seemingly fair surface.

"My suggestion that the mild intervention of the law should be invoked was ignored. It was also met by the assertion that custom has so sanctioned the evils in this Colony as that they are above the reach of the law, and that by custom the slavery was mild.

"I have been driven to denounce the whole evil from the bench in a way I do not now regret. Having been driven to speak out I now suggest to his Excellency the Governor an important addition, not convenient to be particularly alluded to from the bench, to the matters which I have already declared require, as I think, investigation."

I am endeavouring to obtain precise information on one or two points alluded to in the foregoing passages of Sir John Smale's letter.

9. As regards the less criminal but more extensive branch of this so-called slavery question, that in which children are brought and sold in Hong Kong for adoption or for domestic service, I also made some efforts, before I was aware of Sir John Smale's views, and during his absence in England, to enforce what I believed to be the law.

10. In May 1878, as you will see from the enclosed copies of official documents, I received two petitions, one from a man named Tsang san Fat complaining that owing to stress of poverty he had to give away his daughter to a person who he feared was about to take her from the Colony, and a second petition from the person in question, a man named Leung a Tsit, acknowledging that he had bought the child for $23, and complaining that Tsang san Fat was now endeavouring to extort money from him. I made a minute on the petitions, directing them to be sent to the Attorney General as

"the parties appear to acknowledge being concerned in an illegal transaction." In a few days the papers were returned to me with the following opinion of the Attorney General:—

"The transaction referred to would not be recognised in our laws as giving any rights, except perhaps as to guardianship, but I am unable to say that there is anything illegal in the matter beyond that. I do not think it is a criminal offence if it goes no further than the adoption of a child and the payment of money to its parents for the privilege.

"31st May 1878. (Signed) G. PHILLIPPO."

11. In the face of that opinion I had to content myself with directing answers to be written to the petitioners to the effect that, according to British law, the father was entitled to get back the child, and referring the father to the police magistrate. The police magistrate's reports, with a fresh opinion of the Attorney General, came to me on the 19th of June. The magistrate said, in one report, that the girl had been sold in October 1877 for $23, and in a subsequent minute he said, "The purchaser of the girl "says he is quite prepared to give her up when his money is repaid, but that otherwise "he will not part with her unless compelled to do so by law." The Attorney General, however, said he knew of no authority empowering the magistrate to order the delivery of the child to the father. Thereupon I sent a minute to the Attorney General saying I feared he did not recognise the gravity of the case, and adding, "I must trouble him to take steps to prosecute on my behalf the purchaser of the girl." The Attorney General, however, declined to do so for reasons similar to those he had already stated.

Nevertheless, I pressed him to prosecute, and pointed out the grave responsibility he was incurring. He rejoined in a long minute, transmitting certain statements the Crown Solicitor had obtained. In this minute he said:—

"I have no hesitation in repeating my deliberate opinion that in a case of this sort the magistrate has no jurisdiction; that at the most he could only use a little moral pressure, and that if his Excellency desires to suppress the practice of parties adopting children or taking them as servants on giving a gratuity to the parents by the institution of criminal proceedings against parties obtaining possession of children from their parents, under such circumstances it will be necessary to introduce special provisions for the purpose."

12. As my law adviser thus recorded his deliberate opinion that in a case of this sort the magistrate had no jurisdiction, I was, of course, unable to institute criminal proceedings. I must add, in justice to Mr. Phillippo, that on speaking of this case to my principal executive officers, I found he had consulted some of them, and that his view of the matter was in strict accordance with theirs.

13. Three or four months after this incident occurred some of the leading Chinese residents presented a memorial to me, praying that they might be allowed to form an association for suppressing kidnapping and traffic in human beings. They recited the fact that repressive measures had repeatedly been taken against the crime of kidnapping, but that much still remained to be done as girls were being forced to become prostitutes and boys were being sold to become adopted children. I have the honour to enclose, for your information, a copy of this memorial, and of the various minutes and proceedings in connection with it.

14. In my minute of the 12th of November 1878 I expressed the opinion that this was a very praiseworthy proceeding on the part of the Native gentlemen who originated it, and I gave instructions that a committee should be formed of the two police magistrates, the Captain-Superintendent of Police, and Dr. Eitel, together with the leading petitioners, to draw up for my approval some scheme for checking the crime of kidnapping.

15. On the 3rd of October last the committee completed their labours and forwarded their proposed scheme to the Colonial Secretary. I shall submit some observations to you in a separate Despatch on the details of this scheme. Speaking generally, it shows an earnest desire on the part of the Government officers, as well as the Chinese gentlemen on the committee, to put down the evils to which the latter drew my attention in their memorial.

16. Sir John Smale's judgment against slavery was delivered on the 6th of October, but, as you will observe from the enclosed copies of correspondence and minutes, he wrote to the Colonial Secretary on the 30th of May 1879, asking that proceedings be

forthwith taken against certain persons suspected of buying and selling children. I made a minute thereon, dated the same day, stating that such practices had prevailed almost unchecked for many years past, that I had drawn the attention of Mr. Phillippo, the late Attorney General, to a case of the kind, and that I did not agree with Mr. Phillippo's view of the law. I concluded by informing the acting Attorney General that if he thought he could obtain a conviction in the case to which the Chief Justice called attention, or any similar case, it was my wish that the law be strictly enforced.

17. I left Hong Kong the following day (31st May), and did not return till the 6th of September. The Administrator's letter, dated 16th July 1879, sets forth his reasons for not concurring with the Chief Justice as to the proposed prosecution. On my return the Chief Justice made no appeal to me from the Administrator's decision.

18. On the 20th of September, in a somewhat similar case, in which two prisoners were convicted, the Chief Justice directed the acting Attorney General to prosecute a certain Chinese shopkeeper, Pao Chee Wan, and his wife, when the acting Attorney General said the case was before me for decision. I enclose for your information a report of the proceedings in the Supreme Court on that occasion. I subsequently sent a note to the acting Attorney General, saying I thought the prosecution suggested by the Chief Justice should take place; but it was found that the accused parties were not in the Colony.

19. Sir John Smale's action in this matter excited a good deal of attention; and a number of Chinese merchants called upon me to represent their view of the case. I told them that slavery in any form could not be allowed in this Colony. They said their system of adoption and of obtaining girls for domestic service was not slavery; and they referred to the more immoral practice of buying girls for the Hong Kong brothels, which, they alleged, Government departments had connived at, though it was a practice most hateful to the respectable Natives. I requested them to favour me with their views in writing. They did this in the form of a memorial. I enclose a copy of it and a translation, together with a report on it by Dr. Eitel, my Chinese secretary.

20. On receiving from the Chief Justice a revised copy of his judgment of the 6th of October, I sent it to the acting Attorney General for his observations. Mr. Russell suggested that I should refer it to you; and he and my other advisers recommended that no prosecutions in connection with adoption and domestic servants should be instituted, pending the receipt of instructions from you. I mentioned this recommendation to the Chief Justice, who entirely concurred in it. He further recommended that the Chinese should be told that no prosecutions as to the past would take place, but that in future, in every case where buying or selling occurred in connection with adoption or domestic service, the Government would undoubtedly prosecute. This recommendation appears to me to be reasonable.

21. Though I feel that the term slavery can hardly be applied in fairness to Chinese adoption or to domestic service, where the individuals concerned go about our streets with a knowledge that they are free; yet the fact that they have been actually bought seems to me to condemn ths system. I am clearly of opinion that any practice involving a traffic in human beings should be put down by law.

22. Her Majesty's Chinese subjects in this Colony are so loyal and law-abiding a race that I anticipate no real difficulty in getting them to assist the Government in putting a stop to this buying and selling of children for adoption or domestic service. Of course, those who wish to adopt children can do so in the same way that children are adopted in the United Kingdom. Contracts for domestic service can be lawfully made also.

23. I feel convinced that the views I officially expressed on some branches of this subject in 1877 and 1878, and which have now been put forward on the far higher authority of Sir John Smale, are strictly consistent with the policy that would make Hong Kong a flourishing Anglo-Chinese community. For the first time in the history of this Colony, a Chinese gentleman was included, in 1878, in the list of our 30 or 40 local justices of the peace. This year, for the first time, the Chinese are represented in the Legislative Council. As long as they were treated as an alien race it is not surprising that they were allowed to keep up practices alien to our constitution.

I have, &c.,

(Signed) J. POPE HENNESSY.

The Right Honourable
Sir Michael Hicks Beach, Bt., M.P.,
&c. &c. &c.

of slavery in any form founded on the proclamations read with this proclamation? I ask a further question:—Have all Her Majesty's officers, civil and military, enforced these Acts within this Colony? I think they have not; I confess that I have not. Our excuse has been in the difficulty is enforcing these Acts, but mainly in our ignorance of the extent of the evil. What is our duty, now that we know that slavery in its worst as in its best form exists in this dot in the ocean to the extent of say 10,000 slaves,—a number probably unexceeded within the same space at any time under the British Crown, and, so far as I believe, the only spot where British Law prevails in which slavery in any form exists at the present time? But can Chinese slavery, as it *de facto* exists in Hong Kong, be considered a Chinese custom which can be brought within the intent and meaning of either of the proclamations of 1841 so as to be sanctioned by the proclamations? I assert that it cannot. I say this, as at present advised, in the absence of argument. A custom is "such a usage as by common consent and uniform practice has become the law." In 1841 there could have been no custom of slavery in Hong Kong as now set up, for, save a few fishermen and cottagers, the island was uninhabited; and between 1841 and 1844, the date of the Ordinance expressly prohibiting slavery, there was no time for such a custom to have grown up; and slavery in every form having been by express law prohibited by the Royal proclamation of the Queen in 1845, no custom contrary to that law could, after that date, grow up, because the thing was by express law illegal. I go further, and I find that the penal law of China, whilst it facilitates the adoption of children into a family to keep up its succession, prohibits by section 78 the receiving into his house by any one of a person of a different surname, declaring him guilty of "confounding family distinctions," and punishing him with sixty blows; the father of the son who shall "give away" (the idea of sale seems unknown to Chinese law) his son is to be subject to the same punishment. Again, section 79 enacts that whoever shall receive and detain the strayed or lost child of a respectable person, and, instead of taking it before the magistrate, sell such child as a slave, shall be punished with 100 blows and three years' banishment. Whoever shall sell such child for marriage or adoption into any family as a son or grandson shall be punished with 90 blows and banishment for two years and a half. Whoever shall dispose of a strayed or lost slave shall suffer the punishment provided by the law reduced one degree. If any person shall receive and detain a fugitive child, and, instead of taking it before the magistrates, sell such child for a slave, he shall be punished with 90 blows and banishment for two years and a half. Whosoever shall sell any such fugitive child for marriage or adoption shall suffer the punishment of 80 blows and two years' banishment. In each of the above-mentioned cases the punishment shall be less by one degree if the fugitive should be found to be a slave. All fugitives so disposed of shall suffer punishment one degree less than that inflicted on the seller, except when the previous offence of the fugitive shall have been the greatest, in which case the severer of the two punishments to which he is liable shall be inflicted. Whosoever shall detain for his own use as a slave, wife, or child, any such lost, strayed, or fugitive child or slave, shall be equally liable to be punished as above mentioned, but if only guilty of detaining the same for a short time the punishment shall not exceed 80 blows. When the purchaser or the negotiator of the purchase shall be aware of the unlawfulness of the transaction he shall suffer punishment one degree less than that inflicted on the seller, and the amount of the pecuniary consideration shall be forfeited to Government, but when he or they are found to have been unacquainted therewith they shall not be liable to punishment, and the money shall be restored to the party from whom it had been received. After reading these extracts from the Penal Code of China—an old Code revised from time to time,—(I quote from the last revision made in 1875 and published in 1877,)—I cannot see how it can be maintained that any form of slavery was ever tolerated by law in Hong Kong as it *de facto* exists here, or how the words of the two proclamations of 1841 could be said to bear the colour of tolerating slavery under the English flag in Hong Kong. It is to me clear that the Queen's proclamation of 1845, which I have already quoted at full, declared slavery absolutely illegal here. In conclusion, I affirm that to sell or to buy or to hold or detain a man, a woman, or a child as a slave or as property is absolutely prohibited by the law of England, which law is imported into and forms the substance of the law of Hong Kong by virtue of Ordinances 6 of 1845 and 12 of 1873. I hold it to be contrary to the public morals which form a part of that law, and that it ought to be put down. As at present advised, I believe that the law as it exists is strong enough and that its arm is long enough to reach all illegal acts contrary and offensive to public morality or public decency. The Attorney General on a former occasion thought fit to press the Court to instruct him how to frame his information in a case which the Court

you took that child. The sentence on you is that you be imprisoned for two years with hard labour, and that you be kept in solitary confinement for 14 days at each time once in every three months of your imprisonment.

Tsang Sz Tow and U A-In, convicted on two counts of unlawfully detaining by force two boys with intent to sell them, and on two others with detaining the boys by fraudulent means with intent to sell them, were next called on.

The first prisoner admitted having one of the boys, but said it was presented to him to adopt as his own child.

His Lordship said that was no defence, but on the other hand there was not a particle of evidence in support of it, because the child did not speak the language of the prisoner; it had evidently been brought from a great distance.

The second prisoner said he had nothing to do with the first prisoner. He only took the child to be a barber, and no one saw him hawking it or offering it for sale.

His Lordship, addressing the first prisoner, said his case was one of the worst he had known. He had brought the children manifestly from a long distance, because their language was unintelligible here. On the first and third counts (detaining by force) the sentence of the Court was that he be kept in penal servitude for three years, the sentences on each count to be concurrent, and that on the other two counts he be imprisoned for a year, also concurrent with the first sentence.

The second prisoner was sentenced to 18 months' hard labour. His Lordship said this man's case was a very much lighter one than that of the first prisoner. Although there was nothing in his excuse, yet his possession of the children was of a very different character from the possession by the first prisoner.

Keung A-to and Li-A-kak, convicted, the former of buying a child for the purpose of prostitution, and the latter (a woman) with selling the child for the same purpose, were each sentenced to 18 months' hard labour.

* * * * * * *.

Prosecutions directed by Judges.

As his Lordship was rising, Mr. Hayllar said that with reference to judges directing prosecutions, perhaps his Lordship would allow him to mention what he had himself seen on the point. He was present at the assizes when Mr. Roupell, M.P., in the witness-box confessed the forgery of his father's will. Baron Martin tried the case, and what was done there was that the judge wrote a bench warrant; he arrested him himself. He did not think there was any further direction than that given.

His Lordship:—That is going a great deal further.

Mr. Hayllar:—I was at the assizes at the time. As Mr. Roupell sat down in the witness-box he was arrested. That seems to me to be the course in England, because I think I have seen it in another case.

His Lordship said he was much obliged to Mr. Hayllar for his remarks, but that was a warrant, and he was sure Mr. Hayllar must often have seen cases in which directions for prosecution had been given by the judge.

Mr. Hayllar:—Constantly for perjury, but not for other offences.

His Lordship said there was another view of the matter. Suppose it was a misdemeanour, then a warrant would not be issued; it would be a summons. However, he was satisfied direction to prosecute had been constant in England.

Mr. Hayllar said he saw the case he had referred to, and he brought it to his Lordship's notice.

His Lordship said he was much obliged to Mr. Hayllar, because it showed the Court did direct prosecutions.

In reply to a further remark of Mr. Hayllar's,—

His Lordship said the judge was in exactly the same position; he either issued a summons or a warrant.

The Court then rose.

Supreme Court Criminal Sessions, 27th October 1879.

Before the Hon. Chief Justice Sir JOHN SMALE.

This was an adjourned sitting of the Court to pass sentence on two prisoners,—one for kidnapping a boy, and the other for detaining a young girl with intent to sell her.

The Chief Justice now passed the following sentences:—

Sentence on Tang Atim.—Tang Atim was first placed in the dock. After stating the crime of which the prisoner had been convicted, that of unlawfully taking away a

The Chinese Petition.—I will now very briefly allude to the petition by the gentry, traders, and people of Hong Kong, presented to His Excellency the Governor. I must say that its composition and tone do credit to whoever drew it up. The statements appear to me to be one-sided and coloured, but, on the whole, more fair than is usual with persons who believe they are representing grievances. I am bound to add that the strictures on myself are seemly. I am quite sure that such a tone will be the most effectual with His Excellency the Governor, and with the Government in England, and with that great public there, whose moral tone influences the current of thought throughout the British Empire for good.

Domestic Slavery a Chinese Custom.—The petitioners rest their rights on the proclamation of Governor Sir Charles Elliot, but the petitioners ignore the other proclamation of 1841. They especially ignore the proclamation of January 1845, by which slavery was declared to be absolutely abolished in Hong Kong, which, as they have referred to my observations, they must have read there, if there only for the first time.

Infanticide also a Chinese Custom.—I cannot help alluding to one passage in the petition. It says, "Amongst the Chinese there has hitherto been the custom of drown-"ing their daughters. If a stop is put to the sale the custom will be yet more "observed." And again to the third of the ten arguments used, which says, "In China, "among the evils heretofore existing, is the custom of drowning female infants, in the "Kwangtung province more especially so; numbers of the extreme poor cannot supply "even themselves with raiment and food. The added cares brought by children ensue. "These people, having no one to receive their progeny from them, will immediately on "bringing them forth destroy them by drowning." And the petitioners threaten the increase of this "custom" of drowning children if their sale is put down. I quote the passages without the interpolated explanations of the translator, which are his commentary, and nothing more. Now, this petition claims the liberty to continue buying and selling children and women because it is a Chinese custom expressly protected by Governor Elliot's proclamation; but the petitioners call drowning female infants also a Chinese custom.

Both Customs in same category.—They place the two crimes according to the English law under the same category, "custom," and therefore in effect claim for infanticide that it is free from criminality in Hong Kong. I can only say that in case father, mother, or relative were convicted of infanticide, Chinese custom would be no protection, and, unless I am grievously mistaken, the presiding judge would have no alternative but to sentence the perpetrator to death, and the only possible hope would be in the mercy of the Crown if exercised by His Excellency the Governor. Other errors are patent in the petition; but I confine myself to the remarks I have made. I had prepared what I have just said before I had seen the letter which appears in the *Daily Press* of this morning, in which the accuracy of the translation is impugned, whilst the translator vindicates it. Leaving this new question for settlement between these writers, I note that the meaning or use of the word "custom" in the petition is not impugned. My observations, therefore, remain untouched by the controversy; no one questions that the word "custom," as used in the petition, is used as to "slavery," or whatever name the petitioners may decide to designate it by, and is the same word "custom" by them applied to the usage of relatives drowning their infant children, and that in fact, if not in law, the one custom is tolerated just as the other custom is tolerated, and both alike or neither must be claimed as sanctioned by Governor Elliot's proclamation.

Further argument beyond Judge's function.—Beyond what I have already said I will not deal with the facts or arguments of the petitioners. Indeed, it seems to me to be my duty to retire from all controversy. To enter on the arena of controversy is beyond my province. It was my duty, thinking that I had found out grave evils, to say so. My function as judge stops there; it is for the statesman and the legislator to deal with the matter as an evil to be tolerated or to be put down.

Evils to be moderately remedied.—I will only add that if it be decided the evil is to be abated, as I expect will be the decision, I do not desire any sudden or violent intervention with such of the transactions in the past as are within the favourable colouring of the petitioners. Such a course would on many grounds be objectionable. I trust that admitted grave wrong in the past still existing will be put an end to.

For every public wrong a public remedy.—I do hope that, as to the future, a new order of things will be inaugurated, and that the law of this Colony will be enforced in favour of personal liberty as fully as in the protection of property. I must here repeat

that by the common law of England, which happily is the law of Hong Kong, slavery of every kind whatever, all property in human beings, is, as asserted by Lord Mansfield, odious to English law, is a public wrong. For every wrong the law has a remedy. Is there not by common law for every public wrong a public remedy? Is not the only remedy by indictment or information wherever and whenever the law provides no other remedy? All remedies which ever existed by common law or by statute in England up to 1845 against ownership of human beings, against every form of slavery, extend by their own proper force and authority to Hong Kong; and, if that were not enough, all English laws applicable to Hong Kong, including those against ownership in human beings, were by express Ordinances 6 of 1845, and 12 of 1873, embodied into the laws of Hong Kong, whilst the worst forms of slavery are especially punished by Ordinances 4 of 1865, and 2 of 1875. I am bound by most solemn obligation to enforce all these laws. I must, therefore, without fear, favour, or affection, discharge this duty to the best of my ability.

Enclosure 2 in No. 1.

SIR, The Supreme Court, Hong Kong, 20th October 1879.

I RETURN herewith letter from the Captain Superintendent of Police to the Colonial Secretary, recommending rewards of $10 to Inspector Swanston and Police Constable Campbell respectively, on the arrest and conviction of certain kidnappers, which His Excellency the Governor has been pleased to refer to me.

Although I do not know whether these two police officers come within the precise conditions of the proclamation, I think it desirable to sustain recommendations by the head of the police. The conduct of the police officers was good, and the reward is small; I therefore concur in the recommendation.

I should be obliged by a copy of the proclamation for reference.

I avail myself of the opportunity, on recurring to this subject, of informing His Excellency the Governor directly that I daily feel more reason to believe that the practice of kidnapping for purposes other than the coolie traffic has of late been alarmingly on the increase in this Colony. His Excellency will have noted the cases already tried in the Police and Supreme Courts. I may now add that the present sessions for October furnish two cases of the kind for trial before me, and incline me to think that "brokers of mankind," as a girl 11 years of age designates them, form among the various classes of brokers in this Colony a well-known special class, though, like gaming-house keepers, the law ignores them. I believe that mothers have even kept their daughters from going to school for fear of their being kidnapped.

I cannot understand why such classes should as classes increase in this Colony at all, unless it be that (in addition to the Chinese demand for domestic servants and others) there be an increased foreign element increasing the demand.

I fear that a high premium is obtained by persons who kidnap girls in the high prices which they realize on sale to foreigners as kept women.

No one can walk through some of the bye-streets in this Colony without seeing well-dressed China girls in great numbers whose occupations are self-proclaimed, or pass those streets, or go into the schools in this Colony, without counting beautiful children by the hundred whose Eurasian origin is self-declared. If the Government would enquire into the present condition of these classes, and, still more, into what has become of these women and their children of the past, I believe that it will be found that in the great majority of cases the women have sunk into misery, and that of the children, the girls that have survived have been sold to the profession of their mothers, and that, if boys, they have been lost sight of or have sunk into the condition of the mean whites of the late Slave-holding States of America.

The more I penetrate below the polished surface of our civilization the more convinced am I that the broad under-current of life here is more like that in the Southern States of America when slavery was dominant, than it resembles the all-pervading civilization of England.

Nothing less powerful than a commission with legislative powers to investigate and to examine on oath will ever lay bare the evil which, from suggestions I have received, I believe to underlie our seemingly fair surface.

My suggestion, that the mild intervention of the law should be invoked, was ignored. It was also met by the assertion that custom has so sanctioned the evils in this Colony as that they are above the reach of law, and that by custom the slavery was mild.

Inspectors have any reasons to suppose that the woman is unduly influenced, she is brought before me, and I make personal enquiries and decide whether her name shall be put on the list or not. The whole thing is carried on just outside my office door, one of the Inspectors speaking Chinese, and they have an Interpreter.

Many of the women, and it is a frequent occurrence, contract a debt with the brothel keepers, and then work it off. Brothel keepers are in that way money lenders.

I think that eight out of every ten of the women come from Canton, and the rest from Macao and other places. They are either bought or engaged at those places.

* * * * * * * *

All the inmates in the brothels know that they are free, but the national custom is very strong against their leaving them in debt. I think it is useless to try and deal with the question of the freedom of Chinese prostitutes by law or by any Government regulation. From all the surroundings, the thing is impracticable.

EXTRACTS from MINUTES OF EVIDENCE and DECISION of the REGISTRAR GENERAL, as printed in 1879, pp. 91–97 of COMMISSION ON CONTAGIOUS DISEASES ORDINANCE.

15th March 1870.

Complainant; JOHN PETERSEN.
Defendants: TSING-MUI, 41, LO-CHI-KWONG, 24, CHAN-A-I, 28, keepers of brothel No. 122.

JOHN PETERSEN sworn and examined:—To-day, at 2 p.m., I went to brothel No. 122, Caine Road, and found therein the three women now in Court. From information which I have received, I believe that they were brought by the Defendants from Macao, and sold into that brothel.

I apply for a remand, as there were six girls brought over.

Remanded to Friday, 18th March 1870.

Bail, two sureties, in $50 each, for each defendant.

CECIL C. SMITH,
Registrar General.

18th March 1870.

The defendants in Court.

Mr. SHARP appears for defendants.

LO-KWAI declared:—I am a maid-servant. The 1st defendant is my foster-mother. She has reared me since I was three or four years of age. I was brought over to Hong Kong by the 1st defendant from Macao a few days ago. There were six of us in the party, including myself. We took a house on the Praya, where an old woman invited us to dinner. We, that is to say, my two sisters and my mother, went together. We went to the house where the Inspector found us. I do not know that that was a brothel. After dinner, the 1st defendant went to her sister, where there was a bridal feast. We remained in the house a day or two. We were locked up in a room, and at meal times our meals were brought in to us. The 3rd defendant was in that house. She was the woman who invited 1st defendant to her house. She asked the 1st defendant to leave us in her house. I saw her the day or two I was in the house. She asked me to follow her, and asked me if I was willing to become a prostitute. I declined, and said I wanted to go away with my mother. I remained in that house until the Inspector came. I did not ask to get away; but I said that I wanted to join my mother. She said my mother is not here, to whom are you going? The two other girls are with me. I heard nothing about money in the case. I was brought to Hong Kong to be present at a feast to carry the things. I now want to join my foster-mother.

By Mr. Sharp:—I always accompany my foster-mother when she goes out. I first saw the 3rd Defendant in her house. She it was who invited my foster-mother to dinner. With my two sisters, I was passing the 3rd Defendant's house, when she invited us to dinner. That evening we went to the house. We were all together. The 3rd defendant pressed us to stay. My foster-mother did not come back until I was brought up here. The 2nd defendant is my brother. He never came to the house. My foster-mother never asked me to be a prostitute. I want to go back with my foster-mother.

By the Court:—I am 18 years of age. My master, now in Court, did not come with us.

LO-LIN-KIU, declared, states:—I am 17 years of age. I am a servant. The 1st defendant is my mistress. I came over with her and four others, to Hong Kong, from

foreigners, though it has already been once declared as an unlicensed brothel. I know the defendant by sight, but that is all. There has been at times a number of women residing in the house, and I do not know what has become of them. I believe that they have been sent to California by the defendant.

No questions.

Lee-Kwai-Kin recalled :—I have been in the defendant's house when several women have been brought there, and after being kept there for some time have been sent away to California. The women are brought to the defendant and sold to her. I have never actually seen money pass, but I have been present when conversation between the defendant and those who brought the women took place, and bargains have been struck for the women. The price was various; bought here, the women cost from $50 to $150, and when sold in California they were to be disposed of from $250 to $350 each. The defendant has made a great deal of money. She has told me so. Some of the women have told me that they were unwilling to go. They were afraid to make a disturbance. Between 10 and 20 women have passed through the defendants' hands for California to my knowledge.

No questions.

The defendant states :—The witness owes me money as rent for the room. She has taken some ornaments (personal) which belong to me. I deny that I have bought anybody, or sent anyone to California.

Ordered to find security (two sureties of $250 each) for her appearance in any court, for any purpose, and at any time within 12 months.

Cecil C. Smith,
Registrar General.

30th September 1870.

Complainant : John Petersen, inspector of brothels.
Defendant : Wong-a-Tsoi, 23, of Canton, keeper of No. 186 brothel.

Friday, 30th September 1870.

Inspector John Petersen, sworn, states :—Last night, about 7 p.m., I visited the defendant's brothel, which is in Lyndhurst Terrace. I inspected the premises, and found therein the two girls now in court. They are about 18 or 19 years of age. Their names are not on the list of inmates. I had received information on the subject, which induced me to visit the place. The girls said themselves that they had come from Wanchai. The defendant states that the girls only arrived yesterday from Canton, and that they were brought by a small-footed woman.

Ho-a-Ying, declared, states :—I am a rattan splitter in Wanchai, and have lived there since last year. I know the defendant. I also know the two girls. I went up to Canton on the 24th September last. I went to the house of the girls' mother, whom I found dead. They said that they wanted to come down to Hong Kong to get work. I brought them down yesterday by the steamer. I put them into the defendant's brothel. They willingly went to the brothel. Their mother's house is in Tai-Luk-Po. [Witness prevaricates.] I do not know the house. The girls came to me at Pun-Tong, at Sam-Shing-Kung near Wa-Kwong Temple. They came to me about 5 p.m. on the 23rd September last. They came by themselves, and stayed there until yesterday. I live at Tik-Lung Lane, Wanchai. The name of the girl's mother I don't recollect. Their names are Tai-Yow and Tai-Ho.

Tang-Tai-Hi, declared, states :—I am 18 years of age. The other girl, Tai-Yow, is not my sister, but we come from the same place. Yesterday I was brought by the last witness to Hong Kong from Canton. She brought me here to be a prostitute. I was willing to be a prostitute. Since my mother's death I have been living with the last witness. I have lived with her for three years. I did not see Tai-Yow until I went on board the steamer yesterday. I was sold by the last witness to the mistress of the brothel. I heard them talking about it, and so I know it. The last witness also told me that I had been sold. I do not know for what sum. I have never been to Wanchai. I never said that I had been there. I first asked the last witness to bring me to Hong Kong.

Wong-Pang-Ngan, declared, states :—I am 18 years of age. I do not know the last witness except that I saw her for the first time yesterday on board the steamer at

there some years, on the first floor. I have consequently seen a number of girls going into and out of the house. They seemed to arrive by steamer, some in chairs and some walking. I know that the defendant, from what I have seen of her and the girls whom I have seen going out of the house, was a buyer and seller of young girls to go to Macao.

* * * * * * * *

No questions.

LAI-TIM, declared, deposeth:—I am carpenter, living at 71, Wellington Street.

* * * * * * * *

I have always seen a number of young girls being taken in and out of the house. The ages of the girls ranged from 10 to 20 years. There was always a great deal of crying and groaning amongst the girls upstairs. I have not heard any beating, but the girls were constantly crying. The crying was annoying to me and the other people in the shop. The people living in the neighbourhood have, together with myself, suspected that the girls were bought and sold to go to California.

CHAU-CHIN-HO, declared, deposeth:—I am an inmate of No. 60 foreign brothel. I know the third defendant. She was in the habit last year of taking young girls round about the Colony for sale. They were of various ages, from 10 years to over 20. I knew the defendant wanted to sell the girls, as she asked me if I knew any woman who wants to buy them. She comes from Canton.

WONG-HING, declared, deposeth:—I am an unmarried girl of 15 years. I am known here as Wong-Kam. My father and mother lived at Wong-Po, in Heung-shan. At 11 years of age I was taken to Canton by my sister's husband. She sold me as a servant to the Lam family. My master was owner of the "Tin-Kat" joss-stick seller's shop. I was there about three or four years. When my mistress told me that she was going to take me to my sister at Whampoa, the second defendant was there at the time. She is a relation of my mistress. My mistress and Tai-Ku took me into a flower boat. The next morning I was taken to the Shameen, and brought down to Hong Kong. I was taken to the same house in which I was found by the inspector on Monday. This was in the tenth month last year. I saw the first defendant in the house. There was one girl there. My mistress stopped in the house about three days. My mistress sold me to first and second defendants for $120. The second defendant is daughter to first defendant. I was put to work sometimes to make clothes. The fourth defendant came to the house from the country at the beginning of this year. She brought two little girls with her. She assisted the first defendant in keeping the door. I was never allowed to go out. I have never been out of the house since I came to Hong Kong. First, second, and third defendants never went out together. One or two of them always stopped in the house. Last year Tai-Ku and A-Neung told me that I should have to go to San Francisco. This year I was again told that I was going to San Francisco. I said I did not want to go. Tai-Ku then beat me.

* * *

WONG-YAU, declared, deposeth:—I am 19 years of age. I am a native of Wong-chun, in Tong-koon district. I am married to a man at Tamshui. He is a servant in a shop. I have been married about four years. In consequence of a quarrel between myself and another wife of my husband, he sold me to fifth defendant, Sz-Sham, for $81. That was only a few days ago. Sz-Sham brought me to Hong Kong by steamer. She took me to A-Neung's house. I have been there ever since. Several men have been up to the house to see me. They were going to buy me if they liked me. I don't know if they looked at any of the other girls. All the defendants live in the same house.

WM. KING recalled:—I produce a letter which I found in defendant's house.
[Letter and translation marked A.]

Defence.

First defendant:—I am a widow. I am supported by my son-in-law, who is now in California. Mine is a family house. The girls are visitors at my house.

Second defendant:—I am a married woman. My husband is in California. The girls are not mine. I am not in the habit of sending girls to California. My husband is employed on the California steamer.

Third defendant:—I came from Canton to ask first defendant for some money. I never buy and sell girls.

Ordered to find security in the sum of $100 to appear to answer any charge within the next three months.

The complainant Chan-a-Kwai also ordered to find similar security in the sum of $70.

CECIL C. SMITH,
Registrar General.

REPORT BY MR. C. C. SMITH, 2ND NOVEMBER 1866.

BROTHEL ORDINANCE.

* * * * * *

There is another matter connected with the brothels, licensed and unlicensed, in Hong Kong, which almost daily assumes a graver aspect. I refer to what is no less than the trafficking in human flesh between the brothel keepers and the vagabonds of the Colony. Women are bought and sold in nearly every brothel in the place. They are induced by specious pretexts to come to Hong Kong, and then, after they are admitted into the brothels, such a system of espionage is kept over them, and so frightened do they get, as to prevent any application to the police. They have no relatives, no friends to assist them, and their life is such that, unless goaded into unusual excitement by a long course of ill-treatment, they sink down under the style of life they are forced to adopt, and submit patiently to their masters. But cases have occurred where they have run away, and placed themselves in the hands of the police; who, however, can do nothing towards punishing the offenders for the lack of evidence, the women being afraid to tell their tale in open court. Women have, it is true, willingly allowed themselves to be sold for some temporary gain; but that brothel-keepers shall be allowed to enter into such transactions is of serious moment. I have myself tried to fix such a case on more than one brothel-keeper, but failed to do so, though there was no doubt of the transaction, as I held the bill of sale.* The only mode of action I had under the circumstances was to cancel the licence of the house.

In the interest of humanity, too, it might be enacted that any brothel-keeper should be liable to a fine for having on his or her premises any child under 15 years of age.

Enclosure 4 in No. 1.

B.

PURCHASE AND DETENTION OF CHILD.

PETITION from TSANG SAN-FAT.

TSANG SAN-FAT begs to report that on the 29th day of the eighth month last year (5th October 1877), owing to stress of poverty, he gave away his little daughter, aged six years, and named Sam A-kin, to Leung A-tsit of the Man-wo shop, the understanding being that Leung A-tsit should find her husband when she grew up, and should not send her away to other ports.

On the 10th of this month one of petitioner's partners, A-sin, came and said that Leung A-tsit was in a day or two going to take away the little girl to another place.

On the 12th petitioner went to the shop, and taxed him with this, and he made some excuse as to the effect that there were going to be great disturbances in Hong Kong; but in reality he was simply making a plausible excuse to cover his real intention of selling the little girl.

Your petitioner therefore begs that he may be prevented from carrying his design into effect, and that police may be sent to the dock to arrest him.

The Honourable the Acting Colonial Secretary,
&c. &c. &c.

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* *Note by Colonial Secretary.*—The very first ordinance passed in this Colony (by Sir H. Pottinger) was against slavery. It was disallowed as superfluous, slavery being already forbidden, and slave-dealing indictable by law.

Surely the bill of sale here would have been sufficient evidence.

W. T. MERCER.

23

PETITION from LEUNG A-TSIT.

LEUNG A-TSIT, aged 50 years, living in the Man-wo shop at the Tai-kok Tsui Dock, wishes to place on record a case in which he is likely to be cheated.

Your petitioner, who is a native of Ka Ying-chan, has now for a long time been doing business at Tai-kok Tsui.

On the 29th day of the eighth month of the year Ting-chau (5th October 1877), a man named Tsang San-fat made an arrangement with your petitioner by which he, being unable to support a family, handed over to him his little daughter Lam A-kin, aged six years. This was done through the instrumentality of a man named Wan A-cheung. The little girl was to become your petitioner's daughter, and was to be brought up by him, he paying 23 dollars to the parents for the expense they had been put to in rearing their daughter. On the other hand, it was arranged that when the girl grew up the privilege of finding a husband for her should devolve entirely upon the foster parents, and should not concern in the most remote degree the actual parents. On this understanding the girl was taken to your petitioner's house, and a regular deed of transfer was drawn up.

The parent, Tsang San-fat, is now, however, intriguing with a view to extorting money from your petitioner, and threatens, in answer to repeated remonstrances, that he will find out a way of doing it. Your petitioner, therefore, appeals for protection against impending calamities.

The Honourable the Acting Colonial Secretary.
&c. &c. &c.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

To the Attorney General.

The parties to these two petitions (1216 and 1233) appear to acknowledge being concerned in an illegal transaction.

29th May 1878. J. POPE HENNESSY.

MINUTE by the ATTORNEY GENERAL.

The transactions referred to would not be recognised in our laws as giving any rights, except perhaps as to guardianship, but I am unable to say that there is anything illegal in the matter beyond that. I do not think it is a criminal offence if it goes no further than the adoption of a child and the payment of money to its parents for the privilege.

31st May 1878. G. PHILLIPPO.

MINUTES by HIS EXCELLENCY THE GOVERNOR.

Write to Tsang San-fat, saying he was entitled to the lawful custody of his child, and refer him to the police magistrate.

Write to Leung A-tsit, saying that according to British law the father, Tsang San-fat, is entitled to the lawful custody of his child.

1st June 1878. J. POPE HENNESSY.

ACTING POLICE MAGISTRATE to ACTING COLONIAL SECRETARY.

SIR, Magistracy, Hong Kong, 12th June 1878.

I have the honour to request that the Attorney General's opinion be obtained as to what course the magistrates should pursue with respect to the enclosed petition. From enquiries which I have made, it appears the girl was sold in October last, and in consideration of the purchase money, $23, her father, the petitioner, signed a document renouncing all further claim to the girl. Notwithstanding this, he now wants to get her back, but, being unable to refund the purchase money, the purchaser naturally objects to give up the girl, whom, having no children of his own, he had adopted as a daughter.

I have, &c.
C. V. CREAGH,
Acting Police Magistrate.

The Honourable J. M. Price,
Acting Colonial Secretary,
&c. &c. &c.

MINUTE by the ATTORNEY GENERAL.

The petition is not translated, and I do not know what the magistrate is asked to do. I know of no authority empowering the magistrate to order the delivery of the child to the father. A writ of *habeas corpus* from the Supreme Court is the only means that I know of for enabling the father to obtain the possession of the child if it is persistently refused.

14th June 1878. G. PHILLIPPO.

MINUTE by the ACTING POLICE MAGISTRATE.

The purchaser of the girl says he is quite prepared to give her up when his money is repaid, but that otherwise he will not part with her unless compelled to do so by law.

C. V. CREAGH,
17th June 1878. Acting Police Magistrate.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

I fear the Attorney General does not recognise the gravity of this case.
I must trouble him to take steps to prosecute on my behalf the purchaser of the girl.

19th June 1878. J. POPE HENNESSY.

MINUTE by the ATTORNEY GENERAL.

I can find no evidence upon these papers to sustain a criminal prosecution, and I am at a loss what charge to bring. If His Excellency will specify the offence which he considers has been committed, the case shall have my immediate attention. In my opinion, parties entering into a transaction of this nature in England would in no way bring themselves within the operation of the criminal law. I do not think Ordinances 4 of 1865, par. 51, or 2 of 1875, the only local legislation that I know of on the subject, apply to the circumstances of this case.

His Excellency may remember the case of Dr. Eitel, some months ago, in which I gave similar advice as to the necessity of a *habeas corpus* to decide the rights of parties to the custody of a child.

21st June 1878. G. PHILLIPPO.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

I felt no dfficulty in acting on the Attorney General's advice in the case to which he refers, of the girl who had been brought to the London Mission House, the daughter of a deceased Christian, but claimed by another relative of doubtful character. This case is not similar. The allegation is made by the father that his child is forcibly detained by a man who admits he had purchased her, and who, the father alleges, is about taking the child out of the Colony for the purpose of selling her.

Such is the allegation made by the father of the child in his first petition of the 24th of May, and again repeated in his petition of the 14th June. The father's evidence to that effect may or may not be trustworthy. But if it should turn out to be true, the Attorney General, in declining to comply with my instructions of the 19th June, will have incurred a grave responsibility.

26th June 1878. J. POPE HENNESSY.

MINUTE by the ATTORNEY GENERAL.

I did not refer to Dr. Eitel's case as being exactly similar to the present one, but only for the advice given to His Excellency on that occasion. In many respects, however, I think it was similar, as in that case, if I remember rightly, the mother claimed the child, and the widow of the deceased was disposed to give her up upon being refunded a certain amount which she stated had been spent on the child. I am not aware that I have ever declined to comply with His Excellency's "instructions;" I only wish to know in what respect His Excellency considered the law had been broken before I directed any specific charge to be brought. Upon perusal of His Excellency's minute of 26th June 1878, I gathered that His Excellency considered that a charge could be substantiated against Leung A-tsit of forcibly detaining the child under Ordinance 4 of 1865, par. 51, with a view to selling her in some place out of the Colony. I thereupon immediately instructed Mr. SHARP, the Crown Solicitor, to see the father of the child in order to get a statement from

owing, and $2, which was to be paid to my wife, Chan-she, as tea-money. It was further arranged that Leung A-Tsit was not to sell the girl, but get her a husband when she was old enough to marry. On the 5th October 1877, Leung A-Tsit brought me the $2, when I and my wife handed him over our daughter, and he took her away. No paper was drawn up or signed at any time. My wife occasionally visited the child at Leung A-Tsit's house, and found her comfortable and well-looked after.

One day last May 1878, a man named A-sin, employed as a barber in Leung A-Tsit's shop passed by my house during my absence, and told my wife that Leung A-Tsit was going to take the girl away. This was told to me on my return from work, and I then went to Leung A-Tsit and made enquiries. Leung A-Tsit informed me that he thought it would be best to send the girl away—he did not say where—in consequence of the disturbed state of Hong Kong, owing to the war between England and Russia. I told the shopkeeper about it, but after making some enquiries they did not further interfere.

I then petitioned the Registrar General, who told me to lay my case before the Colonial Secretary, which I did. I have no evidence as to any intention on the part of Leung A-Tsit to sell the child, except what was said by A-sin. The girl has not been sent away yet. I do not much care about the child coming back, as I am very poor; but my wife is very anxious that she should return, for she does not like the thought of her being sent away. If she comes back to us, I will do all I can to support her, and to get her betrothed by and by, when I shall probably be able to pay back what I owe to Leung A-Tsit.

My wife is very busy attending to my old mother, and working for the daily rice, so that it would be very difficult for her to come over and give evidence.

Hong Kong, 1st July 1878.

MEMORIAL of CHINESE MERCHANTS, &c., praying to be allowed to form an Association for suppressing kidnapping and traffic in human beings.

To His Excellency the Governor.

The humble petition of the undersigned residents and merchants of Hong Kong, being natives of the Tung-kún district, viz. Lo Lai-p'ing, Shi Shang-kai, Fung Ming-shán, Tse Tát-shing, and others, of Bonham Strand, No. 3, in the matter of uniting to offer rewards on account of the daily increase of crimes of kidnapping, praying for the issue of a warrant with a view to make endeavours to stop these crimes, and to pacify the well-behaved people,

Showeth,

That there are strict regulations in Hong Kong forbidding the sale of honest people through kidnapping or deceit, and that, thanks to His Excellency the Governor repeatedly taking repressive measures against kidnappers, the latter know well that they must be careful as to their movements, and consequently this great evil became well nigh extinguished.

That, however, quite lately the minds of some people have become perverted in deceit, pretending to obey the law and secretly disobeying it, pursuing a dangerous secret game, and moving about between east and west, the worst being go-betweens and old women who have houses for the detention of kidnapped people, and, as it may be, inveigle virtuous women or girls to come to Hong Kong, at first deceiving them by the promise of finding them employment (as domestic servants), and then proceeding to compel them by force to become prostitutes, or exporting them to a foreign port, or distribute them by sale over the different ports of China, boys being sold to become adopted children, girls being sold to be trained for prostitution, it being altogether impossible to explain in detail all their varied plans of wickedness.

That your Petitioners are of opinion that such wicked people are to be found belonging to any of the (neighbouring) districts, but in our district of Tung-kún such cases of kidnapping are comparatively more frequent, and all the merchants of Hong Kong, without exception, are expressing their annoyance.

That, therefore, a meeting for the discussion of the matter has been held, and it is proposed to raise subscriptions, which may either be paid into the Colonial Treasury or entrusted to some house of business, to facilitate general publication of offers of reward, and the employment of special detectives with a view to eventually stamp out this crime of kidnapping, and to make it impossible for the kidnappers to carry on their tricks.

That, moreover, we, natives of Tung-kún, can get comparatively more reliable information regarding Tung-kún kidnappers, leaving no room for miscarriage of justice.

That this, however, being a matter of repressing the dishonest and protecting the honest, may be an interference with official regulations, wherefore your Petitioners dare

not proceed in the matter without a warrant from your Excellency (authorising them to do so), and your Petitioners are thus constrained to present this present petition conjointly, humbly praying that your Excellency may be pleased to yield to the wishes of the people, and issue a warrant to authorise your Petitioners at all times to institute inquiries, and, if they meet with kidnappers, immediately to request the co-operation of the police in arresting them and forwarding them to the proper tribunal to be tried and severely dealt with, those who succeed in arresting kidnappers receiving a reward, and the kidnapped persons being supplied with means to return to their homes, whereby honest people will be saved from ruin, and kidnappers will be unable to carry out their schemes at random; thus also our native city will be benefited, and Hong Kong will be derive equal advantage.

And your Petitioners, as in duty bound, will ever pray.

Appended are five regulations which are respectfully submitted to His Excellency.

In the fourth year of Kwangsui, 1878.

[*Here follow the Stamps of* 62 *different Shops.*]

Hong Kong, 9th November 1878. Translated by E. J. Eitel.

Enclosure in Petition of Messrs. Lò Lai-p'ing, Shi Shang-kái, Fung Ming-shán, Tsé Tat-shing, and others.

1. Kidnapping is a crime which is to be found everywhere, but there is no place where it is more rife than Hong Kong, nor is there a time when it developed so rapidly as of late, the reason being that there have been floods and drought alternating for some years, whereby many of the people were impoverished. Thus it happened that evil-disposed persons had an opportunity to set their wicked plans for inveigling and kidnapping people in operation. Ignorant women fell an easy prey to their schemes. If once they entered the trap there were but few who could extricate themselves again.

Now it is proposed to publish everywhere offers of reward to track such kidnappers and have them arrested. If once they are in custody they will be severely dealt with. Perhaps these kidnappers, hearing this news, will mend their ways. Thus the grace and favour of His Excellency the Governor will not only put under obligation the people of Hong Kong, but all the poor people of the inland districts will, with one voice, praise his goodness.

2. Hong Kong is the emporium and thoroughfare for all the neighbouring ports. Therefore those kidnappers frequent Hong Kong much, it being a place where it is easy to buy and to sell, and where effective means are at hand to make good a speedy escape. Now, the laws of Hong Kong being based on the principle of liberty of the person, the kidnappers take advantage of this to further their own plans. Thus they use with their victims honeyed speeches, and give them trifling profits, or they use threats and stern words, all in order to induce them to say they are willing to do so and so. Even if they are confronted with witnesses it is difficult to show up their wicked game. Now we, the undersigned, will use natives of the Tung-kún district to track the kidnappers of Tung-kún, and although their wicked schemes are very deep, yet they will find it difficult to escape a careful search.

3. The undersigned merchants, engaged here in trade for many years past, have lately noticed that the crimes of kidnapping are increasing from day to day. Many of both the kidnappers and of their kidnapped victims are natives of our native district (Tung-kún). Seeing this to be the state of affairs, it is unbearable to think that these villains take this hospitable Colony for a convenient refuge. A meeting has therefore been held, and it is proposed to raise subscriptions with a view to publish everywhere offers of reward. For every one who brings a kidnapper to trial, whether man or woman, provided they (the kidnappers) are Tung-kún people, and irrespective of the place to which the kidnapped persons may belong, there will be, for each person brought to trial and sentenced, a reward paid to the amount of 20 dollars, and if the kidnapped persons are natives of the Tung-kún district, and the kidnappers belong to other districts, the reward will also be paid as above.

4. The money raised has been subscribed by Tung-kún people, and it will be settled hereafter where the money is to be deposited. But three persons of good repute will be elected to act as managers; and when any case of kidnapping turns up, as soon as the case is tried and proved, the amount of the reward will forthwith be paid by the managers; and as regards the kidnapped persons, whether they came far or near, the managers will arrange and provide means for their being sent back to their homes.

5. This statement has originally been drawn up with a view to be forwarded as a petition which may be kept on record, praying that the Government issue a warrant. For

the kidnappers keep their movements enveloped in secrecy; but if, on information being obtained, the authorities have first to be requested to send detectives to inquire or arrest, it will necessarily take some days, and the kidnappers will meanwhile make good their escape. It is therefore necessary to request the Government to issue a warrant, so that the moment information is given the kidnappers can then and there be given into custody on the spot, whereby the kidnappers will all at once be deprived of their resources and be unable to escape. Should this arrangement be carried out kidnapping will soon be stamped out.

Translated by E. J. EITEL.

Hong Kong, 9th November 1878.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

This seems a very praiseworthy desire on the part of the native merchants and residents who have signed this petition.

I should be glad if the two police magistrates, the Captain Superintendent of Police, and Dr. Eitel would, in concert with the leading petitioners, draw up some scheme for my approval to check this crime of kidnapping.

J. POPE HENNESSY.

12th November 1878.

MINUTE by the ACTING COLONIAL SECRETARY AND OTHER OFFICERS.

Forwarded to the police magistrates, who will be pleased to arrange with the Captain Superintendent of Police and Dr. Eitel to carry out the directions of His Excellency.

C. MAY,
Acting Colonial Secretary.

12th November 1878.

Noted.

C. V. CREAGH,
Acting Police Magistrate.

13th November 1878.

Noted.

JNO. J. FRANCIS,
Acting Police Magistrate.

13th November 1878.

Forwarded to Captain Superintendent of Police and Dr. Eitel.

C. V. CREAGH,
Acting Police Magistrate.

Forwarded to Dr. Eitel, who will oblige by kindly bringing this document to the first meeting.

W. M. DEANE,
Captain Superintendent of Police.

15th November 1878.

SUGGESTIONS by Mr. JOHN J. FRANCIS for the Organization of the proposed Chinese Society for the Protection of Women and Children.

1. That the promoters form themselves into a Company under "The Companies Ordinance, 1865." Any seven persons associated together for *any lawful purpose* may do this. It need not necessarily be for any trading or manufacturing purpose.

2. All subscribers of 10 dollars to the funds of the Association should be members thereof, with power to vote, &c., but should not be liable for any further subscriptions or for any contribution during the existence of the Society, but, in the event of the Company's being wound up, and money being needed to pay off any liabilities, all existing members ought to become liable to pay a further sum of 10 dollars each.

(*a.*) This would be a Society or Company limited by guarantee.

(*b.*) The advantages of forming a company are manifold. The Association would thus obtain—

Corporate existence and definite legal status,
Perpetual succession,
A common seal,

and with this, more prompt and cordial recognition from the Government and the public.

MINUTES OF A MEETING held at the Magistracy, on 28th November 1878, at 2.30 P.M.

Present:—Dr. Eitel, Acting Inspector of Schools; J. J. Francis, Esquire, Acting Police Magistrate; C. V. Creagh, Esquire, Acting Police Magistrate; Mr. Fung Ming-shan, Compradore of Chartered Mercantile Bank; Mr. Shi Shang-kai, opium merchant; and Mr. Tse Tat-shing, tea merchant.

After it had been stated that Captain Deane had received permission to withdraw from participation in these meetings, and that Mr. Lo Lai-p'ing was unavoidably prevented attending the present meeting, the petition addressed by Mr. Lo Lai-p'ing and others, with its enclosure, was read, as also the minutes on the same document, C.S.O. No. 2641.

Adverting to the fact that kidnapping had always been practised in the Colony, Mr. Francis then put the question to the petitioners, if there was of late any special *modus operandi* observed in the proceedings of kidnappers differing from what had been observed and known formerly, and justifying special proceedings either on the part of petitioners or on the part of the Government or both. To this question the Chinees gentlemen present replied that there was indeed a marked difference observable in the proceedings of kidnappers of late, because they had become acquainted with the loopholes English law leaves open, also with the principle of personal freedom jealously guarded by English law, and that through this knowledge their proceedings had not only beeome less tangible for the police to deal with, but the kidnappers had been emboldened to give themselves a definite organization, following a regular system adapted to the peculiarities of English and Chinese law, and using regular resorts and depôts in the suburbs of Hong Kong. In support of this, Mr. Fung Ming-shan laid on the table two documents written in Chinese (marked *A.* and *B.*) One of these (marked *A.*) contained a list of 38 different houses in the neighbourhood of Sai-ying-p,ún and Tai-p'ing-shán used by professional kidnappers as their regular resorts or depôts, and a list of 21 professional kidnappers, whose names are given, but whose residence could not be ascertained. The other document (marked *B.*) consists of a list of 41 professional kidnappers whose personalia have been satisfactorily ascertained. Both papers are herewith appended, together with an English translation.

The magistrates present, feeling satisfied that there was good *raison d'être* for some special organization to oppose this systematized sale of women and children for unlawful purposes, pointed out to the Chinese members of the meeting that one great difficulty the Government frequently met in dealing with such cases was the question, what to do with women or children found to have been unlawfully sold or kidnapped; how to restore them to their lawful guardians in the interior of China; how to provide for them in case such women or children had actually been sold by their very guardians, who, if the woman or child in question were restored to them, would but seek another purchaser; how to prevent such women and children being sold again by their guardians or friends; how to deal with persons absolutely friendless, &c. To this observation the Chinese members of the meeting replied that they were prepared to undertake this duty, and overcome these very difficulties by means of an organized "Society for the Protection of Women and Children," which would employ trustworthy detectives to ascertain the family relations of any kidnapped person, which would see to such persons being restored to their families upon guarantee being given for proper treatment, which, in cases where restoration would not be advisable, or where in the absence of relations and friends it was impossible, would take charge of such kidnapped persons, maintain them, and eventually see them respectably married.

The meeting thereupon agreed that it would be desirable for the proposed "Society for the Protection of Women and Children" to obtain corporate existence, and then authority to employ private detectives to be sworn in as special constables, who would have to be selected and to a certain amount (corresponding to that guaranteed in the case of ordinary constables) secured by the Society's guarantee, who would also be under the general superintendence of the Captain Superintendent of Police, to whom they would, if in the Colony, report themselves daily, without, however, being liable to do any ordinary police duty, being entirely under the orders of the Society.

Mr. Francis suggested to the Chinese members of the Committee the desirability of spreading in the neighbouring districts a knowledge of the English law forbidding the sale of persons and guaranteeing the liberty of the subject. The Chinese members expressed themselves anxious to do so if some one drew up a succinct statement of the provisions of the English law on the subject. The magistrates present expressed them-

selves willing to draw up such a digest in a brief form, and Dr. Eitel promised to translate it into Chinese for the use of the Society.

The Committee then agreed, that, apart from the superintendence of detectives to assist the regular police in the arrest of kidnappers, the functions of the proposed Society would be the raising and administering of funds to pay the detectives and to provide for rescued kidnapped persons, for which an account should be published annually.

The Committee further agreed that there would be no need for the proposed Society to pay out of their own funds the rewards to be offered for the detection of kidnappers, as there is a law authorising the payment of such rewards by the Government.

The Chinese members of the Committee then made some reference to one or two members of the Chinese police force being suspected of being in league with professional kidnappers; but as they had no distinct proof to bring forward, and would therefore, for the present, not give names, it was agreed not to go into this point.

This closed the proceedings for the day, it being understood that draft regulations of the proposed Society would be prepared for the assistance of the Chinese members by Mr. Francis, and, after consultation with the whole Committee, finally submitted to His Excellency the Governor, together with the minutes of this meeting and of any future meeting that may be held.

E. J. EITEL.

Confirmed at the meeting of 28th June 1879.

JOHN J. FRANCIS.

COPY OF LETTER from CHINESE SECRETARY to COLONIAL SECRETARY.

SIR, Hong Kong, 3rd October, 1879.

I HAVE the honour to address you in the name of the Committee appointed by His Excellency the Governor, under date of 12th November 1878, to inquire, in concert with certain Chinese gentlemen, into the matter referred to in their petition of 11th November 1878 (C.S.O. 2641), and to draw up some scheme, for the approval of His Excellency, to check the crime of kidnapping.

The Committee now submit to His Excellency the papers I forward under this enclosure, which contain not only information as to the character and extent of kidnapping practised in Hong Kong, but also a detailed scheme for the suppression of this crime by means of the aid which an organized Native Society for the protection of women and children would render to the Executive.

The Committee beg to urge upon His Excellency the Governor to sanction the proposed Association, and to authorise the Chinese gentlemen who are the promoters of this excellent organization to take the necessary steps to carry out their ideas.

I have, &c.,

E. J. EITEL.

The Honourable W. H. Marsh,
Colonial Secretary,
&c., &c., &c.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

I shall have much pleasure in submitting the details of the proposed Association for the consideration of Sir Michael Hicks-Beach.

I have recently expressed to Mr. Fung Ming Shan and the other Chinese gentlemen who nearly 12 months ago brought this important matter to my notice my best thanks for their valuable co-operation in checking kidnapping and the disgraceful traffic in human beings.

J. POPE HENNESSY.

7th October 1879.

Enclosure 5 in No. 1.

From the Chief Justice to the Colonial Secretary.

The Supreme Court, Hong Kong,
May 30th, 1879.

Sir,

I have the honour to acquaint His Excellency the Governor that I yesterday sentenced Loo A-sú and Chan A-í, two poor women, for detaining a male child, Li A-piu, aged 13 years, against the provisions of Ordinance No. 4 of 1865, paragraphs 50 and 51, to imprisonment with hard labour for 18 months each.

On the evidence it appeared that they sold the child to Lau Pak-cheong, a druggist at Yau-mátí, for $17½, and the child stayed with him as his servant for over 20 days, when his relatives came from Canton and claimed him, but the druggist insisted on his right to possession of the boy, producing a bill of sale, and the boy was not given up till the parties appeared in the police court.

I am satisfied from the evidence that the great criminal was Lau Pak-cheong, and that it is an opprobrium to the administration of justice to punish these poor women as I have done, and allow Lau Pak-cheong to escape. I therefore ask His Excellency to direct that proceedings be forthwith taken against Lau Pak-cheong, and that the case be conducted at the magistracy by the Crown Solicitor, so that Lau Pak-cheong may be committed for trial before the Supreme Court under the above-named Ordinance.

2. I have also to inform His Excellency that on the Special Criminal Sessions on the 6th May instant, a woman, Mak Loi-hí, convicted of stealing a female child, Ng A-so, of the age of nine years, by force, under Ordinance No. 4 of 1865, paragraph 51, to two years' imprisonment with hard labour.

This poor woman was merely a middle woman, and received a small sum, but it came out in evidence that Leung A-luk had bought the child for $53, and was actually confining her in a room when the child was discovered. She was the great criminal. It is an opprobrium to justice to punish this poor woman, Mak Loi-hí, and to allow Leung A-luk to go unpunished.

I therefore ask His Excellency to direct that proceedings be forthwith taken against Leung A-luk, and that the case be conducted at the magistracy by the Crown Solicitor, so that Leung A-luk may be committed for trial before the Supreme Court on the above-named Ordinance.

3. I am aware that, according to precedents here and at home, it is within the province of the presiding judge to direct prosecutions such as these to be instituted, but I think it more convenient to ask His Excellency, as the head of the Executive (whose province it especially is to originate criminal proceedings), to direct prosecution.

4. To let these two chief offenders go unprosecuted, and to punish such poor miserable creatures, exposes the Court to the contempt of the community, and tends to destroy all respect for the administration of justice in the Chinese community.

It is no objection to proceeding against these two persons that they were witnesses examined on the two trials.

According to law the evidence given by each on the former trials might be read against him or her; but I advise this not to be done (see 3 Rus. on C. and M., pp. 411 and 412, 4 Ed. 1865).

That the proceedings sought are right and proper and necessary, I take on myself the responsibility of emphatically asserting. Any trial should be before Mr. Justice Francis.

Herewith are the information and depositions before the magistrate in each case, which be pleased to return to me, they being records of this Court.

I am, &c.,
(Signed) John Smale,
Chief Justice.

Minute by His Excellency the Governor to the Acting Attorney General.

1. It is clear from the evidence and documents published by the Contagious Diseases Commission that practices of this kind have prevailed unchecked, or almost unchecked, for many years past in this Colony.

2. Last year I drew the Attorney General's (Mr. Philippo) attention to a petition from a father for the restoration of his child, but Mr. Philippo, before whom the papers were laid, did not seem disposed to enforce the rights of the father, on the ground that he had sold the child. It would be well to get the petition, and read the minutes on it.

3. I did not agree with Mr. Philippo's view of the law.

4. If the Acting Attorney General thinks he can obtain a conviction in the case to which the Chief Justice now calls attention, or any similar case, my wish is that the law be strictly enforced.

30th May 1879. (Signed) J. Pope Hennessy.

Note.—Governor Hennessy left for Japan on the 31st of May 1879. The Colonial Secretary, Mr. W. H. Marsh, administered the Government till the Governor's return, 6th of September 1879.

Minute by the Honourable the Administrator on the Governor's Minute.

I think the magistrate who committed for trial in these two cases should have an opportunity of perusing the Chief Justice's letter, and of explaining why he discharged the two persons whom it is now suggested should be prosecuted. Refer to him accordingly.

9th June 1879. (Signed) W. H. Marsh.

Enclosure 6 in No. 1.

Report by the Acting Police Magistrate.

Regina *v.* Soo A-su and another.

In this case the druggist Lau Pak-cheung was not discharged, he only appeared before me as a witness for the prosecution.

Regina *v.* Mak Loi-hi.

It appeared to me that Mak Loi-hi, who, according to the evidence, found the child crying in the street, and, under the pretence of finding and restoring her to her mother, took her about and offered her for sale, was the chief actor in the crime; and as I considered that the unsupported evidence of the child was insufficient to secure her conviction, I discharged the 4th defendant, and made her a witness at the request of Inspector Lindsay, who believed that from the inquiries he had made she had purchased the girl on the supposition that the latter had been sold with her father's consent.

When recalled the child herself stated that she told the 4th defendant that this was the case "because 1st defendant told me to say so."

To obtain a conviction under paragraphs 50 and 51 of Ordinance 4 of 1865, it must be proved that the child was detained,—

1. "With intent to sell him or her, or to procure a ransom or benefit for his or her "liberation;
2. "With intent to deprive any parent, guardian, or other person having the lawful "care or charge of such child of the possession of such child; or
3. "With intent to steal any article upon or about the person of such child;"

And I considered that while the evidence of a criminal intention was very slight in the case of the 4th defendant, she would be an important witness against the actual kidnapper of the girl.

It appeared to me that 4th defendant being a well-to-do woman, and having no children of her own, had purchased the girl with a view to adopting her as a daughter in the belief that she did so with the father's sanction.

(Signed) C. V. Creagh,

11th June 1879. Acting Police Magistrate.

When acting Captain Superintendent of Police last year, I wished to prosecute a man for detaining a child under this Ordinance, but as it was shown that the boy had been sold by his father some months previously, the Attorney General (Mr. Phillippo) considered that the purchaser was *in loco parentis*, and could not be punished.

(Signed) C. V. Creagh,

11th June 1879. Acting Police Magistrate.

Minute by the Acting Attorney-General.

I handed these papers to the Crown Solicitor with instructions to see what evidence is forthcoming, and I beg to enclose his report.

With the greatest respect for the Chief Justice I doubt the policy of prosecuting the woman he refers to, having regard to the fact that the Magistrate had discharged

her for want of testimony, and looking to his further report. The Magistrate should always be supported when it is possible; and if he discharged the woman, and put her in the box as a witness, and she was used again at the Supreme Court, it might look like a breach of good faith to treat her now as a criminal.

The other two women I could see less reason for discharging, and I think perhaps should have had them charged, but I felt that that would be a grave slight on the magistrate.

As to the druggist's case I think that the only thing that can be said is that it would look to be a breach of faith to proceed against him now.

The Chief Justice reprimanded all the parties very severely when passing sentence on the others, and I think they were so frightened that they will not engage in such acts again. However, in this case I am quite ready to sink my own opinion, and prosecute if it is deemed politic.

(Signed) J. Russell,
Acting Attorney-General.

5th July 1879.

Report by Crown Solicitor.

Regina *v.* Soo A-su and another.

In this case I find that the boy Lee A-pui and also Lam A-ting of the Sun-kee tailor's shop in or near Canton, where the lad was apprenticed, both left the Colony immediately after the trial, and have not since been heard of. Possibly these witnesses might be got at through the British Consul at Canton, but without their evidence, any charge brought against Lam Pak-cheung, the druggist, could not be well substantiated.

Unfortunately no other evidence is forthcoming, and Inspector Cameron can find no trace of the man A-kam who stole the lad at Canton, or of the woman Ang, both of whom seem to have decamped on hearing that the police had been applied to in the matter.

The druggist was himself the first to complain to the police, and apparently bought the boy with no evil intention, and under the impression that he was an orphan without a home. The child too says that he never told the druggist that he had any home, and expressed no desire to leave him.

The purchase by Chinese (having no family of their own) of young orphans, and indeed of others whose parents are too poor to keep them, is a social custom amongst the natives, and is of constant occurrence in Hong Kong. These "pocket children," as they are usually termed, are often treated with great affection, and are far better off than they were previous to their being so bought.

Regina *v.* Mak Loi-hi.

With the aid of Inspector Lindsay, I have carefully investigated this case. Cheung A-kai and Seung A-luk, 2nd and 4th defendants, discharged at the Police Court, have already given their sworn testimony at the recent Criminal Sessions. Should it, however, after this, be thought desirable to put them on trial, I think there may be sufficient evidence to obtain a conviction. Lum A-chan, 3rd defendant, seems to have taken a minor part in the affair, and would be required as a witness.

Two magistrates sitting together have power to determine cases of this nature.

(Signed) Edmund Sharp,
Crown Solicitor.

Enclosure 7 in No. 1.

The Administrator to the Chief Justice.

Government House,
Hong Kong, 16th July 1879.

Sir,

I have the honour to inform you that your letter of 30th May last, recommending that proceedings be taken against Lau Pat-cheung and Leung A-luk under Ordinance 4 of 1865, paragraphs 50 and 51, was referred by His Excellency Governor Hennessy to the Acting Attorney General, who, before making a report, asked that the papers might be referred to the committing magistrate.

I have now received the report of the Acting Attorney General, as well as those of the committing magistrate and of the Crown Solicitor, and I regret to inform you that

after carefully considering these reports, as well as the depositions forwarded by your Honour, I do not see my way to directing the prosecutions of the two persons indicated by you; first, because, with all deference to your Honour's opinion, I do not agree with you in looking upon them as the principal criminals; and, secondly, because I think that after the evidence of these persons has been taken before both the committing magistrate and the Supreme Court without any warning having been given to them that their evidence might be used against them, it would appear like a breach of faith to treat them now as criminals.

A perusal of the depositions which you forwarded me, and which I now return, does not show that either of these persons obtained possession of the children for immoral purposes. It appears also from the depositions that they were led by the statements of the prisoners who have been sentenced by you, which statements were confirmed by the children themselves, to believe that one of the children had no parents, and that the other was disposed of with the written consent of the father, alleged to be the only surviving parent. Neither of the children seem to have been ill-treated, and the magistrate has expressed the opinion with regard to the woman Leung A-luk, that "being a "well-to-do woman, and having no children of her own, she had purchased the child with "a view of adopting her as a daughter, in the belief that she did so with the father's "sanction."

Should the prosecution of these persons result in their acquittal, which seems to me not improbable, I fear that the good effect produced by the severe reprimand, which I understand that your Honour administered publicly to all the parties concerned in these two cases, might be to a great extent neutralized.

As your Honour's letter has remained for some time unanswered, I think it only right that I should acquaint you without further delay with the opinion that I have formed on the subject of your communication. But as your letter has been under the consideration of Governor Hennessy, whose departure for Japan prevented him from finally dealing with it, there seems to me to be no reason why the matter should not be left, if your Honour wishes it, for the decision of His Excellency on his return to the Colony, when it will not be too late to take proceedings against the parties, should it be thought necessary to adopt that course.

I have, &c.,

His Honour the Chief Justice, &c. &c. &c.

(Signed) W. H. Marsh, Administrator.

Enclosure 8 in No. 1.

The Chief Justice to Colonial Secretary.

The Supreme Court,
Hong Kong, 8th October 1879.

Sir,

The Criminal Calendar for September 1879 was sent to you in due course yesterday. It comprises three cases:—Case No. 1, a conviction of Lee A-kau for kidnapping and detaining a child aged 8 years; case No. 6, a conviction of Tsang Sz-tau and Ü A-in, on two counts, for kidnapping and detaining a boy, Ho Po-sing, with intent to sell him in this Colony, and on two other counts for the same offence as to another boy, Yeung-shing; and case No. 9, a conviction of *Keung A-to for purchasing a female child, Tin-heng, for the purpose of prostitution in this Colony*, and of Li Akak for having sold the same child for the same purpose.

I thought it my duty, on the occasion of passing sentences on these prisoners, to enlarge on the crimes to which these crimes ministered, the great increase of which in number had recently been brought to the notice of the Court, especially slavery usually designated domestic, and slavery for the purposes of prostitution; and seeing that arguments, doubts, and difficulties had been rather hinted at than fully expressed, I thought it incumbent on me to enter very fully into all the questions at a length which otherwise might be thought too prolix.

I concluded my arguments by an epitome of most of the propositions I desired to affirm, which are comprised in eight propositions. To these I refer as the substance of most of my very long observations.

What I said appears in the "China Mail" and "Daily Press," but I think the latter on the whole is more exact.

The matters discussed are important. I have expressed my views on them with the earnestness they excited in my mind.

I should be going beyond my proper province to say more than that. I am at the service of His Excellency the Governor as to the serious questions which may arise.

I have, &c.,
(Signed) JOHN SMALE,
Chief Justice.

The Honourable W. H. Marsh,
Colonial Secretary,
&c. &c. &c.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

To the Acting Attorney General for his observations.

(Signed) J. POPE HENNESSY,
9th October 1879.

MINUTE by the ACTING ATTORNEY GENERAL.

Read.

J. R.

The COLONIAL SECRETARY to CHIEF JUSTICE.

Colonial Secretary's Office,
Hong Kong, 9th October 1879.

SIR,

I AM directed by His Excelleney the Governor to acknowledge the receipt of your Honour's letter of the 8th instant, calling His Excellency's attention to the observations your Honour made in sentencing certain prisoners convicted of kidnapping and detaining children for sale at the recent sessions, and I am to convey to your Honour His Excellency's best thanks for placing your great experience and knowledge at the Governor's service in this matter.

I have, &c.,
(Signed) W. H. MARSH,
Colonial Secretary.

The Honourable Sir John Smale,
Chief Justice,
&c. &c. &c.

Enclosure 9 in No. 1.

From "Daily Press" of 22nd September.

Hong Kong Supreme Court, 20th September 1879.

Criminal Sessions.

Before the Hon. Chief Justice Sir John Smale.

SELLING AND BUYING A CHILD FOR THE PURPOSES of PROSTITUTION.

Keung Ato was charged with unlawfully buying a female child named Siu Ahing for the purpose of prostitution, and Li Akak with selling the said child for the same purpose, on the 4th March. The Acting Attorney General (Hon. J. Russell), instructed by the Crown Solicitor (Mr. E. Sharp), prosecuted, and Mr. Ng Choy appeared for the first prisoner. The jurors were Messrs. M. A. de Carvalho, N. A. Siebs, J. G. dos Remedios, A. O. Gutierrez, T. G. Glover, L. M. Baptista, and J. F. Mardfeldt.

Mr. Koro Rata, of the Japanese Consulate, was present to watch the interests of the girl.

The Attorney General, in opening the case, said the girl, being then about 11 years of age, was brought here from Japan by a Chinaman, to whom, according to the girl's own statement, she was sold by her parents. After his arrival here, being in want of money to go to his native place, this man left her in pledge with a respectable compradore for $50. The compradore kept this little girl as his servant, but it appeared that about the 3rd March last her mistress had beaten her severely, and she ran out of the house. She was met in the street late at night, about 11 o'clock, by the second defendant, who said something to her, and finally took her to the house of the first defendant, and there sold her for a sum of money. The first defendant kept her in the house for some time, and, according to the girl's statement, threatened to send her to Singapore to be a prostitute. The whole of the surrounding circumstances showed the intention was either to keep the girl here as a prostitute, or to send her to Singapore,

I stayed in her house more than 10 days. I did not go out during that time; I was locked up. I did ask to be allowed to go out, but she gave no answer. I was taken to the first prisoner's house after ten or more days' time. The first prisoner's wife was sent for, and she came to the second prisoner's house, and took me to the first prisoner's house. The second prisoner did not take me there, but she came afterwards. The first prisoner's wife took me to her house to sell me. When I say "to sell me," I do not mean to say that the second prisoner had sold me to the first prisoner's wife. When the first prisoner's wife came to the second prisoner's house I did not hear what was said. I did not know that when the first prisoner's wife came to the house of the second prisoner she wanted to buy me for a daughter. What she wanted to purchase me for I don't know. I have said that when I was at the first prisoner's house, the second prisoner, when she got the money, told me it was paid by the first prisoner, who was going to adopt me as a daughter. The first prisoner never told me he had bought me for a daughter. I was treated as a daughter in the house. I have not said elsewhere that when the second prisoner first met me in the street she said, "I will sell you to some one to be a daughter."

The deposition of the witness at the police court was then put in and read. She made no reference at that time to ever having gone to Singapore, but said that one day the first prisoner told her he was going to send her to Singapore to be a prostitute; and in reply to a question by the first prisoner said it was not because she had refused to make tea that he said this. She also said that the second prisoner said to her in the street, "Come with me, and I will sell you to some one to be a daughter."

Cross-examination continued:—I lived in the first prisoner's house a long time, four or five months. I went out to see a procession about a month ago, and from the first time I went to the prisoner's house until I went out to see the procession I remained in that house. I should now like to return to Pao Chee Wan.

His Lordship:—What do you say about home, and your father and mother?

Witness:—I would rather go back to the young gentleman than to the first prisoner or my father and mother.

His Lordship:—But going back to the young gentleman is going back to the young lady with her fan.

Witness:—Yes.

His Lordship:—Yes, she would rather have the treatment of a servant than this delightful treatment as a daughter. Can she give any reason why she would like to go back there?

The witness gave no answer, and his Lordship remarked that it was merely a fancy, for which she could give no reason.

The second prisoner asked no questions.

His Lordship:—Tell that chattel she can stand down.

The Attorney General said he did not intend to call Pao Chee Wan or his wife.

His Lordship said if neither party called them he would do so, unless the Attorney General said there were reasons of a criminal nature why they should not be called.

The Attorney General said the matter was standing over for consideration; there might be reasons of a criminal nature.

His Lordship said that in that case he would not call them. He was very glad to hear it.

Choi Atsoi, an amah, formerly in the employ of Pao Chee Wan, was then called, but, not answering to her name, the Attorney General asked that her depositions at the police court might be read.

Sergeant Perry proved having made diligent search for the woman, and having been unable to find her. He believed she had gone to Canton.

His Lordship said this was not sufficient proof that the woman was not in the Colony. Pao Chee Wan and his wife would be the witnesses as to that.

The Attorney General said, that, for the reason he had before stated, he could not call them.

His Lordship said he would not interfere with any proceedings the Attorney General might be contemplating against that young gentleman. He would not be sorry to see him there on another occasion.

The Attorney General said another witness, Cheung Sam Mui, was also absent, and the same remarks applied in that case.

The depositions were therefore not read.

P. S. Perry said that on the 29th July he saw the first prisoner at the police station, and in consequence of instructions he received he went with him and the first witness to the house of Chung Sam Mui. The latter was not in, and they went to the first

prisoner's house, where they found her. On the way the first prisoner said the girl was his adopted daughter, and his woman had brought her from Japan three years ago. The second prisoner was afterwards arrested. When the charge was read over to her in the charge room she said she had sold the girl to the first prisoner for $60, but that she only had $40 of it. The first prisoner was present at the time, and heard what was said.

By Mr. Ng Choy:—He did know sufficient Chinese to understand what was said, and could repeat it in Chinese.

Mr. Ng Choy asked him to do so.

The witness was repeating what was said, when Mr. Ng Choy said he was satisfied.

His Lordship:—Then he has your certificate that he knows Chinese. I am very glad to hear it, for he is a very deserving man.

By the second prisoner:—You did say there was no bill of sale. You also said you had sold her to him for a daughter. You did not say she was a present.

By his Lordship:—When Pao Chee Wan and the first prisoner were together at the station the first prisoner said he claimed the child as his adopted daughter, and that she had been living with him and his woman in Lower Lascar Row for three years; his woman brought her from Japan three years ago, and she was his adopted daughter. Pao Chee Wan said he was a compradore, and resided in Lan Kai Fong. He pointed to the little girl and said, "She is my servant, and has been living with me and my wife for three years; I missed her about three months ago." The little girl, in answer to questions, made a rambling statement. First she said she belonged to the first prisoner, and afterwards that Pao Chee Wan was her master. She said her mistress had beaten her, and she had run away, and that when she was in the street the second prisoner met her and afterwards sold her. Since that time the girl has been living at the Tung Wah Hospital, and was brought to Court from there this morning. She was sent there by the police.

Wong Akow said her husband's name was Chan Aku, and she lived in the same house as the first prisoner and his wife. She recollected the girl in Court being taken to that house by second prisoner. There was a conversation between the two prisoners, but she did not know what was said. The following day the second prisoner came again, and received money from the first prisoner; witness did not know how much, nor what the money was for. There were several tens of dollars passed. The girl remained with the first prisoner, and witness never saw the second prisoner in the house again. Witness gave certain information to the police, and pointed her out in the street. She heard her charged at the police station with selling the child. The first prisoner was present. In answer to a question whether the girl belonged to her, the second prisoner said "Yes," that she had sold her to Ato (the first prisoner), and that the price was $60.

By Mr. Ng Choy:—She did hear the first prisoner say to the second that he wanted the girl for a daughter. The girl remained in the house of the first prisoner all the time up to about a month ago. As far as witness knew she was treated as a daughter.

By the Attorney General:—She had not seen the girl go out with the first prisoner's wife. Witness sometimes left the house for a few days. The first prisoner's wife had gone to her father's house; witness did not know where that was. She had been away for several months.

By his Lordship:—It was some time before there was any question at the magistracy that she went away. She went away alone.

Yan Ahing, Sergeant Interpreter at the Central Station, said:—I recollect the first prisoner coming to the station on the 29th July. He said, "That girl is my servant girl. My woman brought her from Japan about three years ago. I live in Lascar Row."

By Mr. Ng Choy:—I did not hear him say the girl was his adopted daughter. Sergeant Perry was there when he made this statement. He said he lived in Lascar Row, and that the girl had been living with him three years; he did not mean that he had been living in Lascar Row three years.

This concluded the case for the prosecution.

Mr. Ng Choy, addressing the jury on behalf of the first prisoner, said the man stood charged on the information with having purchased a certain child for the purpose of prostitution. He was not charged with purchasing her for any other purpose, nor was the other prisoner charged with selling her for any other purpose, and therefore that purpose must be clearly proved before the jury could convict. If they had the least doubt about it he submitted it was their duty to acquit them, certainly to acquit the first prisoner. Now, what were the facts? The little girl was sold by her parents in Japan to a Chinese; then she was brought here, and she was resold to Pao Chee Wan, a

compradore, in whose family she stayed for two or three years. Then, according to her own story, she got a beating one night and ran away, and while she was crying and wandering in the street, having no place to go to, she met the second prisoner, who asked what was the matter. The girl told her, and then the second prisoner took her to her house. There was some inconsistency in her evidence as to what passed between the second prisoner and herself, and they would remember her evidence at the police court was given very shortly after the occurrence. However, she was taken to the second prisoner's house, and remained there for some days, and then she was sold to the first prisoner. Now, what was the object for which the first prisoner purchased her? At the police court, she said most clearly that the second prisoner, after she had got the money, told her she had got it from the first prisoner, who was going to adopt her as a daughter. If they believed this, the object of the first prisoner in buying the girl was quite clear. As the jury knew, a Chinese family, when they had no girl, would often buy a girl for a daughter. This, therefore, was not at all an unusual case. Whether it was a good policy or not was another question, but it was often done. Well, the girl remained in the first prisoner's house for several months, being treated as a daughter, as she herself said, and had ear-rings, bangles, and clothes given her. Then one day she went out with another woman to see the funeral procession of Mr. Kwok Acheong's mother, and there she was seen by a servant of the compradore, Pao Chee Wan, who told her to go back. She refused there and then, and was taken to the station, and then the matter was brought before the Court. Now, what was the evidence, he should like to know, against the first prisoner of his having purchased the girl for the purposes of prostitution? He (the learned counsel) was taken by surprise when the girl said in the witness box that she had been taken to Singapore by the wife of the first prisoner, and that she remained there for five or six months. She never said a word about that at the police court. The police made enquiries, the girl herself was examined several times by the magistrate, and not a word was said about this then. But then she contradicted herself in cross-examination; she said she remained at the first prisoner's house from the time she was taken there until the day she went out to see the procession. After such evidence as this could they convict the prisoner on the unsupported statement of the girl? Then, again, she was flatly contradicted by the woman Wong Akow, who was living in the same house as the first prisoner, who said the girl remained in the house from the time she was purchased until the day she went out to see the procession, and that when the first prisoner's wife went away she went away alone. Therefore the girl's statement about having been taken to Singapore must have been an afterthought, a result of her imagination, and they must necessarily disbelieve that part of her story. Well, if they did not believe that, what else was there? He had put in the deposition of the girl at the police court, and there was one point in it which might strike the jury as implicating the first prisoner. She said, "About a month ago the first prisoner told me he was going to send me to Singapore to be a prostitute." She did not say that to-day, but as the deposition had been put in he was bound to draw their attention to it. The story was a very improbable one. She could give no reason why he told her this. And why on earth should he have told her? Then, even if it were true he had said so, he did nothing to carry out the threat; no overt act had been proved; and, he submitted, it was not enough to convict upon. It might have been simply an idle threat used towards her when she was disobedient, the man never intending to carry it out. Now, what was there against him in the evidence given to-day? At the police station he was foolish enough to tell a falsehood. They knew the Chinese were prone to tell lies, —he was sorry to have to say that,—but they were not to punish him for telling lies. When he was at the police station, he said, "My wife brought this girl from Japan three years ago." Probably he said this to smooth matters, and was perhaps in terror at the time. But, as he had said before, they were not to punish him for telling lies; he was charged with a different offence. But let them look at the conduct of the prisoner. He was a respectable man, and it had been proved that when he bought the girl he said he wanted her for a daughter, and the girl admitted that during the whole of the several months she was in his house she was treated like a daughter. Therefore the evidence, so far from supporting the charge, negatived the presumption that when he bought the girl he meant to make an immoral use of her. If he wanted to use the girl for immoral purposes, why did he keep her in his house four or five months? The prisoner was not charged with simply purchasing the child, but with purchasing her for the purpose of prostitution; and before they could convict, they must be perfectly satisfied that was the purpose for which he purchased her. He (the learned counsel) would be the last person to advocate slavery, or the nefarious practice of buying girls for the purpose of prostitution, but he would urge the jury not to be led by their

abhorrence of slavery and immoral practices to convict a man upon insufficient evidence. He submitted there was not a shadow of proof against the first prisoner to support this serious charge which had been brought against him, and he had full confidence in asking them to acquit him.

The second prisoner said :—I have not much to say. The girl followed me because she said her mistress had beaten her, and therefore she was crying and would not go back to her mistress. That is all.

His Lordship then summed up. He said Mr. Ng Choy had not attempted to show there was not the transaction of buying and selling this girl as a chattel, but what he did say was that the evidence did not show that the buying and selling was for the purpose of prostitution. If the jury believed the man gave $60 for such a poor little simple child as that, looking simply to her services in an honest course of life, and not for the power of selling her again, or for dedicating her to prostitution, he was entitled to their verdict. The case was one of some difficulty in that respect. The question was, Did the first prisoner buy the girl for the purpose of prostitution? Of course the girl was told all sorts of fine things when she was to be sold. When they sold a horse they gave it the best grain, and coddled it up, in order that it might look better in the eyes of the purchaser; and it would not have done for the woman here to have made the worst of the story to the girl. Of course she said, " I am going to get you a capital place, such a place as you have never heard of." All that, they knew, was a lie, but it was the lie that always accompanied fraud and deceit. But first they had to consider as to the first prisoner; when he bought the child did he buy her believing it gave him the power of selling her as a prostitute? because, if so, he bought her for the purpose of prostitution. He did not buy her probably to take advantage of her himself, or for a particular house of prostitution; but did he buy her with intent in his mind of selling her when she should become fit for the prostitute market, or did he give $60 for that miserable little thing as a servant? Inasmuch as Mr. Ng Choy had raised that issue only, and very properly so, he would read only so much of the evidence as met that particular issue. Now, there was the fact that the child was going about the streets when the woman met her, and, naturally enough, told her she was going to get her a very fine place, and that she was to be an adopted daughter. That went for nothing. But did they believe the girl when she said that on the next morning the woman said to her, " I am going to sell you to be a prostitute?" If they believed the woman said that, then she had herself indicated the object with which she sold the child. The evidence of the child seemed to him to be the evidence of truth; she was old enough and clear-headed enough to be able to appreciate facts, but he doubted whether she was clever enough to be able to invent them. If they believed the woman said to her, " I am going to sell you for a prostitute," that followed and coloured the whole transaction. He was speaking now, not as laying down the law, but as stating what he conceived to be the common sense view of the affair. The child then went on, " I said 'I won't go.'" She might have had some horror of prostitution. They knew something of what prostitution was in Japan before the Japanese Government took it in hand and dealt with it. They could understand that even a child would be taught the horrors of prostitution in Japan. The woman says, " It is very good; you have good clothes and shoes;" and the child begins to think of the beautiful clothes and so forth, and all the glorious consequences of being a prostitute;—they gilded the pill to her, as they had to millions before her;—and then she says, " How much are you going to sell me for?" She began to warm, and think it was not such a bad thing. The woman said, " For $10." The girl said, " So cheap." The child thought that even her flesh and blood was worth something more than $10. The second prisoner said, " That person will not give more than $10." Nothing more was then said. This woman, according to the child's story, had opened to her the fact that she was to be a prostitute if any one liked to buy her for that, and she got the child—poor little creature—to assent to it. Did they believe that conversation took place? It seemed to him an impossibility for that child to have invented it, as if she could appreciate what the effect would be on the minds of the jury! His Lordship then continued reading the evidence of the first witness, and directed attention to the expression of the child, " The first prisoner was there to take delivery." He said he had no doubt the first prisoner treated the girl with every possible kindness; but they knew the story of the natives in the South Seas, who, when they caught a crew of Englishmen, put them in a cage and fed them up before they ate them, treating them with the greatest possible kindness. He did not impute this to the first prisoner; perhaps he did not do it with that intent, but kindness to a girl under such circumstances did bear two constructions. Referring to the girl's statement that she had been taken to Singapore, his Lordship said great doubt had been thrown on the narrative, and it certainly was a very singular narrative; but the fact that it

was not mentioned at the police court was nothing against what she said being true, because it was constantly occurring that when a witness said something in that Court, and was asked why he had not said it at the police court, he said, " I was not asked." But did they think the girl's narrative at the Magistracy was a narrative of her own without question and answer? He did not. Questions were put to her, and she was not likely to volunteer very much beyond, except that here the pressure of the Court gave her a degree of confidence which she had not at the Magistracy. Then if they believe what the child said about being taken to Singapore, the case was complete as regarded the first prisoner. However, the jury might believe this or not, according to the view they took, but it did not affect the general narrative of the case. If they did believe it, the first prisoner was guilty; if not, it was a strange invention which some one must have put into her head, and she had been at the Tung Wah Hospital all the time, and no imputation was made against the people at that institution. One construction was that she was not asked this at the Magistracy, and here something had directed her mind to it. His Lordship then referred to the statement of the first prisoner given in evidence by the girl at the police court, that he was going to send her to Singapore, and said that as the deposition had been put in by Mr. Ng Choy, it was evidence against the prisoner here. The statement showed that the man believed he had acquired the right and power to dedicate her to prostitution. Then came his own statement to the police, " That girl belong my servant girl." He did not call her his adopted daughter, but claimed her as his servant, whom he had a right to deal with as he said would,—that was, to sell her as a prostitute. His Lordship said he thought he had dealt with all the evidence on the question of prostitution, and asked the counsel engaged if there was anything else they wished him to refer to.

Mr. Ng Choy said he would like to have the evidence of the woman Wong Akow read.

His Lordship said there was another point, which was, that there was no bill of sale. A bill of sale was that which might be supposed to give legality to such a transaction; but if any legality according to Chinese ideas did exist in such cases, this was a surreptitious transaction without a bill of sale. He then read the evidence of Wong Akow, and said Mr. Ng Choy put that forward as showing it was impossible the child could have gone to Singapore. The question was a difficult one, but that he would leave to the jury. The real question was a simple one:—When a man bought such a child did he buy her to be a prostitute, or did he buy her to be adopted daughter, and give such a price as $60 for her?

The Attorney General asked his Lordship to call the attention to what the first prisoner said at the police court about having had the child three years.

His Lordship did so, and told the jury the case was in their hands, the question being whether the child was bought and sold for the purpose of prostitution or not.

The jury unanimously found both the prisoners guilty.

His Lordship.—I will call upon the prisoners at a future time. This is a case of far larger proportions than the guilt or innocence of the two prisoners at the bar. I take shame to myself that the appalling extent of kidnapping, buying, and selling slaves for what I may call ordinary servile purposes, and the buying and selling young females for worse than ordinary slavery, has not presented itself before to me in the light it ought. It seems to me that it has been recognised and accepted as an ordinary out-turn of Chinese habits, and thus that until special attention has been excited it has escaped public notice. But recently the abomination has forced itself on my notice. In some cases convictions have been had; in two notable instances, although I called for prosecution, the criminals escaped. They were Chinese in respectable positions, and I was given to understand that buying children by respectable Chinamen as servants was according to Chinese customs, and that to attempt to put it down would be to arouse the prejudices of the Chinese. The practice is on the increase. It is in this port, and in this Colony especially, that the so-called Chinese custom prevails. Under the English flag, slavery, it has been said, does not, cannot, ever be. Under that flag it does exist in this Colony, and is, I believe, at this moment more openly practised than at any former period of its history. Cyprus has been under our rule for about a year, and already, both in the House of Commons and in the House of Lords, questions have been asked, and the members of the present Ministry have assured the country that slavery in every form shall be speedily put down there. Humanity is of no party, and personal liberty is held to be the right of every human being under English law, by, I believe, every man of note in England. My recent pleasant personal experience in England assures me of that. But here, in Hong Kong, I believe that domestic slavery exists in fact to a great extent. Whatever the law of China may be, the law of England must prevail here. If

Chinamen are willing to submit to the law, they may remain, but on condition of obeying the law, whether it accords with their notions of right or wrong or not; and, if remaining, they act contrary to the law, they must take the consequences. I am perfectly satisfied that the state of this Colony will attract the attention of Parliament when it next assembles. I shall deal with these people when I shall have more fully considered the case. I now direct you, Mr. Attorney General, to prosecute these two people, Pao Chee Wan and Wai Alan.

The Attorney General:—My Lord, I intimated before that this matter was under consideration; I do not think I am at liberty to say under whose consideration.

His Lordship:—I direct the prosecution, and will take the responsibility. It is the course in England, and I will pursue it here.

The Attorney General:—You have publicly directed it; and I will report it to the proper quarter.

His Lordship:—The Attorney General at home is constantly ordered by the Court to prosecute. On my responsibility alone I do this.

The Attorney General:—May I ask your Lordship to say on what charge?

His Lordship:—Under sections 50 and 51 of No. 4 of 1865, and also for an assault.

The Attorney General:—I have given this case a good deal of consideration, and as your Lordship directs a prosecution I should be glad if you would indicate under what Ordinance you think it should come.

His Lordship:—I have directed it under those two sections, and you will exercise your discretion or your responsibility in doing it.

The Attorney General:—I cannot if I am directed.

His Lordship:—I direct the prosecution.

The Attorney General:—Will your Lordship look at section 7 of the new Ordinance?

His Lordship:—I have said as much as I choose to say, and I will not be put to question by the Attorney General. If you have any difficulty come to the Court in Chambers. There are three cases of kidnapping, &c. at the present Sessions. Those crimes are on the increase here.

The Attorney General:—The matter is already before the Governor, and has been for some time. I have received a note to-day saying it is not decided what shall be done.

His Lordship:—I am sure it is the earnest anxiety of the Governor that what is right shall be done. No one can appreciate the Governor's efforts in that direction more than I do.

The Attorney General:—I am simply waiting instructions. The matter has been before the Governor for some time.

The prisoners were then removed, and the Sessions was adjourned until to-morrow.

Enclosure 10 in No. 1.

(*Translation.*)

To His Excellency the Governor.

The petition of the undersigned committee-members and merchants, acting on behalf of the Chinese community of Hong Kong, viz., CHIÚ Ü-T'IN, WONG K'WAN-T'ONG, LÉUNG ON, KWOK TS'UNG, FUNG MING-SHÁN, WONG SHÜ-T'ONG, FUNG TANG, LÉUNG LÜN-PO, CH'AN CHÉUK-CHI, FUNG YIN-T'ING, TS'UI SUI-CHANG, P'ÁNG YAT-P'Ò, U HÒ-TS'ÜN, KWOK NÁM-P'ING and others, praying your Excellency to be pleased to stretch a point of law, and to apply it with discrimination, so as to yield to the feelings of the people, and to extend compassionate consideration to their views,

Showeth—

That whereas the Colony of Hong Kong is situated in the immediate neighbourhood of the Canton province; many of the poor, from all sorts of places, sell their daughters or dispose of their sons to save their own lives (from starvation), and as the Chinese Government has never prohibited the practice, it was hitherto continued for a long time without interference.

That lately, however, there were certain avaricious rogues and vagabonds, who, under the pretext of buying girls to be employed as domestic servants, sold them from hand to hand to be sent abroad for purposes of prostitution, such confusion of stones with pearls being a matter for extreme regret.

That your petitioners last year addressed your Excellency by petition on this subject, praying for permission to establish a Society for the protection (of women and children),

hoping thereby to stamp out such practices, whence it will be seen that the undersigned committee-members hate such wicked practices as one hates an enemy.

That the practice of purchasing boys for purposes of adoption, and the practice of buying girls for purposes of domestic servitude, widely differ from the above-mentioned wicked practices, because the purchasing of boys has its reason in the absence of male descendants creating a desire to adopt a son, as the sphex adopts the mulbery insect, whilst the buying of girls has its origin in the necessity for a division of labour caused by the multifarious character of domestic duties.

That such servant girls being young have both to be taught and to be tended, and when they have reached maturity, they have to be given in marriage (to free men), whilst all along they are allowed to take their ease, and have no hard work to do.

That all former Governors of this Colony were fully aware of these social customs of the Chinese people, and never insisted upon the law being set in motion against them, but treated the matter with indulgence, and forbore prosecution.

That your petitioners find that in the year 1841 his Excellency Governor Elliot issued a proclamation inviting an increase of settlers, in which it was said that all Chinese residing in Hong Kong would be treated in accordance with their native customs, and so forth, whereupon people far and near were delighted to come, and the Colony of Hong Kong showed thenceforth signs of improving in prosperity from day to day.

That now, however, your petitioners are informed that his Lordship the Chief Justice, after the trial of a case of purchasing free persons for purposes of prostitution, said, in the course of his judgment, that buying and selling girls for domestic servitude was an indictable offence;—which put all native residents of Hong Kong in a state of extreme terror; all great merchants and wealthy residents in the first instance being afraid lest they might incur the risk of being found guilty of a statutory offence, whilst the poor and low class people, in the second instance, feared being deprived of a means to preserve their lives (by selling children to be domestic servants).

That, moreover, there obtains in China the practice of infanticide in the case of female infants, which would be extremely increased if it were entirely forbidden to dispose of children by buying and selling; and further, people thus deprived of a means to keep off starvation would, it is to be feared, drift into thiefdom and brigandage.

That your petitioners, considering your Excellency's habit of solicitude for the sufferings of the people, and of sympathy with their feelings, will surely not allow poor people who have no helper to be left awaiting death with tied hands, humbly beg that your Excellency, in merciful consideration for the feelings of the people, forego the carrying out of a measure bringing distress upon the people, and lay before Her Majesty's Government their prayer that, in applying the provisions of the law to the Chinese practice of buying sons for purposes of adoption, and girls for domestic servitude, a point be stretched in dealing with the case, but that the purchase of free people for purposes of prostitution, and the kidnapping and selling of persons from hand to hand, be severely punished, when both poor and rich in the whole Colony will be greatly indebted to your Excellency's favour for ever and ever.

That your petitioners further beg to enclose herewith a statement of the case under ten different paragraphs, which they respectfully submit to your Excellency's consideration.

And your petitioners, as in duty bound, will ever pray.

P.S.—Strictly speaking, this petition should have been signed by all the traders in Hong Kong, but in view of the urgent and pressing nature of the case the Committee feared to incur the long delay which would be caused thereby. It was therefore resolved at a public meeting that the undersigned, fourteen members of the Committee, should append their signatures on behalf of the whole community to avoid delay.

In the year 1879, the 22nd of October.
In the fifth year of the reign of Kwongsui, the 9th moon, the 8th day.

Translated by
25th October 1879. E. J. EITEL.

Translation.

Subjoined is a statement, under ten different heads, which is herewith respectfully presented for inspection, with the humble prayer that it be carefully examined, and action taken thereon as may be deemed expedient.

1. Since time immemorial there has been in China the practice of buying and selling male and female children, either for purposes of adoption (in the case of boys), or in

the case of girls either to bring them up as one's own daughters or to use them as domestic servants. As there is in all these cases free will and inclination on both sides, and no kidnapping, or decoying, or compulsion, the law does not* forbid those practices. These practices are, moreover, not merely those of the common people, but of the families of scholars and high officials as well. The reason of all this is the excessive increase of the population, and the wide extent of poverty and distress. The Government, therefore, yielded to the circumstances, and moulded the law accordingly, with a view to relieve the distress of the people. For if all those practices were forbidden, poor and distressed yeople would have no means left to save their lives, but would be compelled to sit down and wait for death. This is the principal reason for the non-interference of the law. But as to selling free persons for purposes of prostitution, as to decoying, kidnapping and compulsion, and other wicked practices, the law of course restrains them with severity, the worst cases being visited with capital punishment. Whilst all those practices, therefore, may be classed together as buying and selling (of free persons), it is yet requisite to distinguish carefully the good or wicked purposes which each class of practices serves, and accordingly apply discriminately either punishment or non-punishment.

2. Hong Kong being conterminous with the Canton Province, and in constant intercommunication with the inland districts, nearly 40 years have now elapsed since the opening of the Colony, which has become an emporium of trade, and since the last few years many Chinese have brought their property, wives and families, to the place, supposing that they would be able to live here in peace, and to rejoice in their property. The reason for this movement was a belief in the equitable administration of the criminal law on the part of the English courts of law, and the absence of vexatiousness on the part of the Executive. Native residents have, therefore, lately expressed a wish for naturalisation, and native merchants felt a desire to settle down in this trading place for good. Moreover, at the first opening of the Colony, His Excellency Governor Elliot issued a proclamation inviting an increase of settlers by the promise that Chinese coming to reside in Hong Kong would be in every respect governed in accordance with their native customs; and from the time of the publication of this proclamation to the present day people always depended upon it. Chinese residents of Hong Kong have, therefore, been in the habit of following all native customs which were not a contravention of Chinese statute law. It is said that the whole increase and prosperity of the Colony, from its first foundation to the present day, is all based on the strength of that invitation which Sir John Elliot gave to intending settlers, and that this present intention of applying, all of a sudden, the repressive force of the law to both the practices of buying and selling boys or girls for purposes of adoption or for domestic servitude is not only a violation of the rule of Sir John Elliot, but moreover will, it is to be feared, not fail to trouble the people.

3. One of the common but evil practices in vogue in China is the practice of infanticide in the case of female children, and this practice is most especially followed in the Canton Province. Poor and indigent people, scarcely able to provide food and clothes for themselves, finding themselves additionally burdened with the anxieties and troubles which children involve, will frequently, if unable to find anybody willing to take over and rear them, proceed to drown them the moment they are born. This practice has lately abated to a certain extent, as compared with former times. But although the practice of infanticide, a cruel and unnatural proceeding, is of course unanimously abhorred by everybody, yet, being really caused by the pressure of poverty and distress, it must be classed with evils which are almost unavoidable. Now, if the buying of adoptive children and of servant girls is to be uniformly abolished, it is to be feared that henceforth the practice of infanticide will extremely increase beyond what it ever was. The heinousness of the violation of the great Creator's benevolence, which constitutes infanticide, is beyond comparison with the indulgence granted to the system of buying and selling children to prolong their existence. Moreover, the families which are able to purchase children have an abundance of clothes and food, which certainly offers an advantage beyond anything those children had in their own families, as they are placed beyond all care of providing against hunger and cold. The foregoing considerations are calculated to make people rather rejoice over the fact that these children change hands.

* This is not literally correct. The law being on this point in advance of the social life of China, as the Brehon laws were in advance of Irish civilization, does not permit parents to sell their children indiscriminately. But this law is a dead letter, and as a matter of fact such sales are of every day occurrence in all classes of society, and certainly not treated as illegal by the Chinese courts. Hence the belief of the petitioners.—E.J.E.

4. When parents are willing to sell their sons and daughters to others, the reason invariably is, that their troubles are innumerable, their plans exhausted, their means squandered, and it is only when they find there is no better way out of their difficulty that they resign themselves to this resort. As regards the sellers, their own intention is to find some one willing to buy, so that the matter is entirely voluntary, and there is not the least compulsion in it. As regards the buyers, they look upon themselves as affording relief to distressed people, and consider the matter as an act akin to charity, especially as the boys or girls they buy, being of tender age, have, as a general rule, to be clothed, fed, nursed, taught, and if they are sick a doctor has to be engaged to attend to them; and when they are grown up, the boys have to be provided with a wife and a separate family dwelling, and to be set up in house-keeping; and in the case of girls, a good husband has to be picked out for them to make them happy for life. The love and care devoted to them is often greater than that bestowed on one's own offspring. In view of all this, it is impossible to class this system as identical with life-long slavery and deprivation of liberty.

5. China honours, above all others, the tenets of Confucianism, that is to say, the teachings of Confucius and Mencius. Mencius says there are three forms of deficiency in filial duty, but the worst of them is to have no descendants. Consequently every childless person considers it obligatory to adopt a son, for the term "deficiency in filial duty" implies a sin of the most heinous hue. Supposing even that there were a man showing no willingness (to adopt a son), his relations and friends would certainly do the utmost to exhort him to do so. Hence the number of people who are willing to buy boys for purposes of adoption. But it being once permissible to purchase boys in order to make them one's own sons, it follows that it is also permissible to buy girls in order to make them one's own daughters. This system is the most essentially important of all Chinese customs, and your petitioners therefore beg that this statement be condescendingly examined and tested.

6. In China there are fixed rules for the purchase of human beings, which rules bear absolutely no comparison whatever with the mode of purchasing ordinary commodities. For in buying ordinary articles of any kind, the buyer acquires unlimited power over them, and he is entirely at liberty to keep them or reject them. There is no such thing in the purchase of human beings. For when a girl is bought for domestic servitude, her parents may come at any time to visit or inquire after her, and before the contract is half over they may redeem her. When the girl is of age, she is to be married, and the parents must, of necessity, be communicated with, and as to willingness or unwillingness the girl herself is allowed to have her say in the matter. If the master (of a servant girl) is cruel and overbearing, and drives her to despair so as to kill herself, or to run away without leaving a trace behind her, the parents or relatives of the girl may apply to the Court, and the master will be prosecuted and punished. It is for this reason that any family which has lost a servant girl is bound to issue a notification offering a reward for any one who will devise means to find her, until she is recovered, for it is feared that otherwise the parents will institute proceedings in the matter. This being the treatment required, it is evident that the purchaser has not complete power, but that one half of the power rests in the girl's own free will. Comparing this system with life-long slavery, it is evident the two are as different as heaven and earth. Some time ago the Chinese Government strictly prohibited the coolie trade, but has now concluded treaties with Peru, Spain, and other countries, sanctioning free emigration, the reason being that the coolie trade was based on deception and kidnapping, but free emigration is a matter of independent free will. Both (coolie trade and emigration) are to a certain extent matters of the same nature, yet when they are discriminately examined the two systems differ as wide as heaven and earth. Thus also the system of kidnapping girls for purposes of prostitution, and the adoption of boys or purchase of servant girls, are also matters of the same nature (as coolie trade and free emigration); only it requires some intelligence to be able to distinguish the (turbid) river King from the (clear) stream of Wei.

7. Some months ago the Chinese merchants of Hong Kong presented a petition to your Excellency, praying for permission to establish a Society for the protection of honest people (women and children), the object being to afford protection to women, girls, and young children generally against the snares of seducers and kidnappers. It will be seen from this that your petitioners hate that form of wickedness as one hates one's enemy, and cannot bear seeing this class of rogues and vagabonds at liberty to play their pranks in this humanely governed English Colony. For their practice is to use kidnapping and seduction, cunning and deceit, as a source of profit and permanent revenue, and differs from honest and straightforward buying of sons or purchasing of

servant girls so widely that there can be no comparison at all. Thus good and evil can be easily distinguished in this case.

8. Some years ago, about the beginning of Sir Arthur Kennedy's administration, your petitioners, seeing immorality flourish to an extraordinary degree, to the great injury of public morals, seeing also a system of kidnapping of females going on, intended for exportation for purposes of prostitution, to the total obscuration of the moral sense, could not bear looking on quietly, and in personal interview with His Excellency the Governor begged that some energetic measures be devised for the repression of this evil. At that time Sir Arthur Kennedy considered it was almost impossible to move a finger to repress sly prostitution, because it was impossible to deal with it without coming into collision with the liberty of the individual guaranteed by the English law, and that only one course was left open, viz., to pass an ordinance comprehending in its application everything of that sort whereby the evil might gradually be abated. He also asked your petitioners what they thought of it, and all replied it would be an excellent measure. Accordingly Ordinance No. 2 of 1875 was passed. Your petitioners therefore considered that, according to Sir Arthur Kennedy's intention at the time, this Ordinance referred simply to kidnapping and to forcible detention and seduction of women and girls, as also to the purchase of females for purposes of prostitution, but to nothing else. Strange to say, sections VII. and VIII. allow a construction and have a range of application so extensive that they can be made to extend to the buying of sons for adoption, and to the buying of girls for domestic servitude, which would assume accordingly a criminal character. This is, in the opinion of your petitioners, inexplicable, and they beg, therefore, to suggest the advisability of dealing with the matter by a slight alteration (in the wording of those sections) so as to yield to the feelings of the people.

9. The office of the Registrar General was charged with the superintendence of prostitutes and the licensing of brothels and similar affairs. But from 80 to 90 per cent. of all these prostitutes in Hong Kong were brought into these brothels by purchase, as is well known to everybody. If buying and selling is a matter of a criminal character the proper thing would be, first of all, to abolish this evil (connected with the brothels). But how comes it that since the first establishment of the Colony down to the present day the same old practice prevails in these licensed brothels, and has never been forbidden or abolished. It will be seen from this that successive Registrar Generals, who were thoroughly acquainted with Chinese social customs, abstained from such grievous measures (as interference with purchase of children for adoption or domestic servitude).

10. When the law forbids the purchase of slaves, the reason certainly is that it is to be feared they might be reared in contempt and treated with barbarity. Such prohibition is, therefore, a matter of benevolence and compassion. Now as to bringing up girls for domestic servitude, of course if one looks at the fact that these girls receive no wages, there is indeed a difference from ordinary servitude. But as one has to tend and nurse them whilst they are of tender age, and marry them off when they are grown up, it is only for the few years between those two periods that one gets the benefit of their labour. Moreover, as they have to be given away in marriage, they are not like capital that remains on hand, whilst the food and clothes they get are far superior to what they got in the families they came from. Girls of poor and distressed families, seeing this, look upon it as the very heaven and highroad to fortune. If all such chances for them were cut off, all the daughters of poor cottagers would consider their high road to fortune destroyed. Thus the intention to do them good would turn out to be to their injury. Your Excellency, being inspired by humane and benevolent feelings, will surely be able to sift and weigh the above statements.

In the foregoing ten paragraphs your petitioners offer but a few slight explanations of the customs of the Chinese people, and of the measures taken by successive Government officials, the real facts being here set forth and presented to Your Excellency in the earnest hope that Your Excellency will, by a stretch of charity and sympathy, condescend to yield to the feelings of the people, and deal with the matter descriminately. And as to that Ordinance, passed some time ago, which contains passages referring to this subject, Your Excellency may perhaps deem it advisable to change the meaning of the Ordinance, by adopting the nearer and rejecting the far-fetched sense of the words. Or perhaps it may be advisable henceforth to subject the buying of sons for adoption, and the purchase of girls for domestic servitude, to official registration, with the expressed stipulation that such children are not to be treated oppressively, or some similar rule.

Whilst submitting these suggestions, with due respect for Your Excellency's decision, your petitioners beg to state that by such measures there will be no grievance inflicted on the people, but rich and poor will both be comforted and the whole community of Hong Kong will be benefited thereby.

Translated by
E. J. EITEL.

25th October 1879.

Enclosure 11 in No. 1.

DR. EITEL'S REPORT.

SIR, Hong Kong, 25th October 1879.

I HAVE the honour to forward herewith a more detailed Report, for the information of His Excellency the Governor, on the subject of Domestic Servitude in relation to Slavery, regarding which I had been requested to express an opinion.

I have, &c.,
E. J. EITEL,
Acting Chinese Secretary.

To the Hon. W. H. Marsh,
Colonial Secretary.

Slavery, as it existed in the West, in ancient Greece and Rome, as well as in modern America, has always been an incident of race. Greek philosophers, in view of the intellectual inferiority of barbarians, treated the enslavement of barbarians by Greeks as a matter of course. As to Roman slavery, it claimed no other justification than the right of conquest. The members of an inferior race, or the subjects of a weaker nation, were held in perpetual bondage by the members of another and stronger race who conquered in war, and who looked upon their captives and the descendants of their captives as their property, *de jure gentium*, as Justinian calls it. In course of time, however, an enlarged sense of equity, and the development of that old Roman theory, the *lex naturalis*, refuted this notion of the Roman Law that victory gave the conqueror any further power over the defeated beyond disarming and disabling them as regards resumption of warfare. But with this advance of civilization came also an enlarged consciousness of the wide gulf separating civilized nations from barbarous tribes—white men, and therefore free men—from black races, supposed to be intended by nature for a position inferior to that of a free civilized white man. Slavery was thus not only continued, but assumed a deeper significance, and seemingly greater justification, as being founded on organic differences, implanted in men by nature, inborn and therefore indelible. Thus it was that modern slavery, whilst abandoning the justification established in Roman Law by the so-called *jus gentium* of Justinian, adopted the argument first propounded by Greek philosophers, and slavery became thus a more enduring and systematic bondage than ever. For it was now defended even by Christian divines as in harmony with the divine purposes prophesied in Scripture regarding the descendants of Ham, and illustrated by the physical and intellectual inferiority of black races, for science also lent its aid to rivet the chains of the Africans, as being but highly developed apes.

Roman slavery received its fullest development when Roman civilization and Roman jurisprudence was in its zenith. Thus also the absolute slavery in which the black races of Africa were held by white men in the West Indies and in America, who treated them simply as a commercial article of export and import, was materially perfected by the rapid advance which civilization and science had made among the progressive societies of Europe and America as compared with the retarded development of barbaric into civilized life, illustrated by the condition of the black races of Africa.

In fact, this postulate of organic differences in men as the principal apparent justification of modern slavery, is possible only in societies which, in the evolution of their social and political organism from the family groups or village units of patriarchalism, summing up all the relations of persons in the relations of family, have reached that high stage of development which is characterized by a mature sense of personal rights and individual obligation giving to the individual the place of the family. That systematic reduction of men to chattelhood which converts the members of one race into a seemingly natural article of trade or into mere living implements of agriculture for the use of another race, is the privilege of a socially self-conscious generation which laboured hard

to emerge from feudalism and despotism in gaining civil and political freedom, and was able therefore to appreciate what the negation of liberty implies.

But although this modern slavery was thus the natural outcome of an abnormally rapid advance of civilization, it was an outrage upon the spirit of the old Roman *lex naturalis*, which all along counteracted the growing tendency of Roman law to treat the slave as a mere article of property, and which, especially since the French Revolution, developed with marvellous rapidity. Slavery was, in truth, an unnatural straining of the organic differences implanted in man, and therefore bound to be rectified by a reaction. The great colonial emancipation initiated by Wilberforce, and the more recent abolition of slavery in the United States, represent thus but a necessary development of the social organism of the West. The natural law of reaction was set in motion by that humanitarianism which, since the end of the last century, began to permeate, like an electric current, the whole of the western world. The result was a general growth of that ideal conception of nature which merges all distinctions of race in the higher synthesis of the universal brotherhood of man. Slavery has thus happily become an impossibility among the enlightened nations of the West, in whose laws and social relations the status of a slave has been more or less superseded by the contractual relation of master and servant.

Nevertheless, it must not be forgotten that, whilst this higher conception of humanity, this appreciation of the fundamental equality of all human beings, with its consequence, the abolition of slavery, is the outcome of a long course of organic development through which the social life of the West has passed by the gradual dissolution of family dependency and the growth of individual obligation, our present conceptions of humanity, of personal liberty, and of slavery, are but transitions of progress, and await further modifications and wider applications from the light of science and the spirit of equity. And further, it should be remembered that, whilst the slave trade is successfully abolished in the West, slavery still lingers in many highly civilised countries. Even in the social organisms of the most advanced countries like England, numerous relics of ancient patriarchalism, feudalism, and despotism have survived, which are out of harmony with the spirit of modern civilization. Take, as an instance, that relic of ancient patriarchalism, the absolute authority of husband and father, which still survives in the law of England, vesting parental rights in the father alone. Or take as another instance that relic of ancient feudalism, the European principle of *feme covert*, which absorbs the legal existence of woman during marriage in that of her husband. Or consider, as a third instance, but *unum de multis*, the powerful hold which the idea of aristocracy, as implying a superior quality of blood in so-called old families, still has on the popular mind of the West, America not excluded.

The foregoing will, I trust, suffice to show that the term "slavery" is bound up with the peculiar development of the social life and the legal theories of the progressive societies of the West. It has, indeed, such a peculiar meaning attached to it that one ought to hesitate before applying the term rashly to the corresponding relation of a social organism like that of China, which had an entirely different history, and has hitherto been socially unconnected with those highly developed societies. But I believe also to have shown that in Greek, Roman, and modern society the practice of slavery always required some ingenious justification before the tribunal of the moral sense; in other words, that ever since the social organisms of the West emerged from archaic patriarchalism, so long retained by the ancient Romans, and especially by the Sclavonians and a few other Indo-Germanic nations, slavery had no natural place in them. Its gradual dissolution was but a question of time.

Whilst thus the idea of absolute rights inherent in men, and the recognition of the absolute equality of every human being, has been slowly and gradually evolved in the West, and thereby procured, in the course of ages, the virtual abolition of slavery, we find an entirely different development of the same ideas in China. That flower and fruit of modern Christian civilization, the practical realisation of the consciousness of the common fatherhood of God and the universal brotherhood of man, as the heirloom of every human creature, has been the very seedcorn and root from which the Chinese social organism has sprung up. That Heaven and Earth are the common parent of all human creatures, that all men within the four seas (*i.e.* all people that on the earth do dwell) are brethren, is the keynote of the religious, social, and political teaching of the most ancient Chinese classics. In that ancient period of Chinese history which is still looked upon as the classical norm and guide for the present and future, the Chow dynasty (founded 1122 B.C.), slavery was abolished in every form except that of the condemned criminal. Although slavery was re-established by the Han dynasty (3rd century B.C.), which developed the *patria potestas* to such an extent as to give parents

of relationship in the family. Few foreigners have comprehended the extent of social equality which this conception of the family practically engenders. The amount of influence which woman, bought and sold as she is, really has in China, and there within her proper sphere, within the family, is little understood. The depth of domestic affection, of filial piety, of paternal care, which is ingrained in every member of this colossal aggregation of families called China, has never been fathomed yet, and is almost unintelligible to the members of modern European Societies, which, in their haste to constitute a social order in which every personal relation shall be based on the free and intelligent agreement of individuals, almost forget that they are building up the rights of the individual on the ruins of the family, and developing social equality and individual liberty at the expense of domestic affections and filial piety. Who would glibly decide that this modern intellectual individualism of the West, with all the development it has wrought in science and mechanics, is an undoubted advance upon the filial piety and intuitive faith of Chinese patriarchalism?

Having thus a definite place within the pale of the family, and thereby secured against being converted into a mere chattelhood, though subject to a *patria potestas* which is shared in by every other member of the family, the Chinese family-slave has not a position peculiarly galling. His master is of the same blood with him. Slavery in China is not an incident of race as in the West, but an accident of misfortune. The master knows that any turn of fortune may reduce him to the position of a slave. The slave knows that his master, though he be the highest official in the Empire, is under the same *patria potestas* in relation to the Emperor in which he, the slave, stands in relation to his master. There is really little in the position of a Chinese family-slave which allows a close comparison with the condition of a slave under the Roman Law, or of a negro in the hands of his West Indian or American master. Considering that the legal definition of the term slavery (see Wharton, Law Lexicon, London, 1872,) is "that civil relation in which one man has absolute power over the life, fortune, and "liberty of another," the question arises, can such a position as that occupied by the Chinese slave be seriously called slavery, in the legal acceptation of the term, or is it not rather the position of a bond-servant than a slave that he occupies?

To answer this question, it is necessary to define exactly who are slaves in China, how such slavery arises or perpetuates itself, and then place side by side with it the existing system of domestic servitude as it practically obtains in China.

The only classes of persons in China answering to some extent the afore-mentioned legal definition of the term "slavery" are convicts, eunuchs, and persons who sold themselves into or were born in hereditary family-slavery. Chinese convicts, as also occasionally prisoners of war, are sometimes attached, in the position of slaves, to military stations on the frontier, or presented to military officers on the frontier as domestic slaves. They are treated as outlaws, but may not be killed with impunity. Most of them eventually become permanent settlers, and have their liberty restored to them, or they may be pardoned and return as free men to their families. Female convicts also are occasionally sold into domestic slavery in official families. But if such a female slave is given in marriage, she becomes free; and if she bears a son to a free man, whether as wife or concubine, that son may succeed to his father's property. As to eunuchs, who are principally employed in the Imperial Palace, or in the palaces of the Princes, who are by law bound to keep and supply eunuchs, they are either provided by parents who have their children made eunuchs to secure to them the easy life in the harem, or they are persons who for some reason or other submitted to the same operation, or they are the sons of rebels who were made eunuchs by order of the Government. These eunuchs, though the victims of a barbarous custom, are not outside the pale of the family, and occupy a fixed position in it guaranteed by the law. As to private or ordinary domestic slaves, not being convicts, it must be understood, in the first instance, that no free parent can sell his children into hereditary slavery. The law, whilst recognizing and legalizing hereditary slavery, severely punishes any tendency to mix the once existing social ranks. Hereditary slaves, therefore, if not convicts, are either born in hereditary slavery, or they are persons who deliberately sold themselves into such slavery by stress of poverty, or with a view to gain the protection of a wealthy family. Such a sale must be the free and voluntary act of the individual, must have the sanction of him who wields the *patria potestas* over the individual, and the deed must be approved, stamped, and registered in a public Court. The owner of such a slave is bound by custom to provide him with a wife, and the descendants of such a marriage are then hereditary slaves.

This form of slavery is comparatively rare in the Canton Province, where it occurs only in connection with very wealthy families, but is said to obtain to some extent among the so-called Tán-Ká or boat population of Canton, many of these families being in the

relation of hereditary slaves to wealthy Cantonese clans, under whose protection they live, and to whom they pay portion of their earnings. There is, however, nothing in his outward appearance or condition to distinguish such a slave from a free person. Although I spent the greater portion of fifteen years in some inland districts of the Canton Province, I have never to my knowledge seen such an hereditary slave. I am told that generally only the nearest acquaintances know a slave to be such, and that the only outward distinction of an hereditary slave is the rule made by custom, that on New Year's Day, when even the poorest free man, who goes about barefoot all the year through, dons shoes and stockings, the slave has to wear wooden clogs. *I am sure there is not one such hereditary slave in Hong Kong.* But suppose one came here, and were told that he is entirely free on British soil, it would make no difference to him whatever; for he looks upon his master as a refuge to fall back upon in case of sickness, and anyhow he treats his relation to his master as a family relation, and views his adherence to it as a matter of honour. Besides, any such slave has always a chance of purchasing his freedom, and if once affranchised his descendants in the third generation can compete for official honours. This system of slavery, whilst comparatively rare in the Canton Province, is more frequently practised in the Fohkien Province, where by custom the third generation of an hereditary slave regains freedom. But the principal seat of this slavery is in the agrarian districts of Shantung, and most especially in the Hwui-chau, Ning-kwoh, and Ch'i-chou Prefectures of the Ngan-hwui Province. It is also said to exist to a large extent among the fishermen of the Cheh-kiang Province. But in all these cases the slave is a member of the family to which he belongs, which is answerable for his life to the State, and the law permits all such slaves to redeem themselves by money payment, when the contract which restores liberty to the slave is to be stamped and recorded in Court.

Under these circumstances I have no hesitation in saying that it seems to me impossible to identify this curious mixture of contract service, family dependence, and slavery, which characterizes the Chinese analogue of slavery with that slavery which the history of European society evolved, and to which our law books, Acts of Parliament, and Orders in Council refer. To deal justly with the slavery of China we ought to invent a new name for it.

Domestic servitude occupies an entirely different position. Whilst the hereditary slave and his immediate descendants are excluded from all competition for official honours, domestic servitude does not imply such disability, although the law treats the domestic servant during the term of his engagement as under the entire control—life of course excluded—of his master, who is answerable for his misdemeanours and involved in his crime. In all arrangements, contracts, or deeds regarding domestic servitude there are invariably the elements of a monetary transaction, just as in the case of deeds of adoption. The sale and especially the pledging of persons, whether adults or children, for purposes of domestic servitude, is the ruling custom all over China. The law, although sanctioning the sale of children for purposes of adoption within each clan, and even from without, is here in advance of public opinion, as it expressly allows, by an edict of Kien Lung (A.D. 1788), the sale of children only to extremely poor people in times of famine, but forbids even in that case re-sale of a child once bought. Practically, however, the indiscriminate sale of children for purposes of domestic servitude is not interfered with by the law at any time. On the contrary, the advance of law over custom here indicated is but slight when we consider that the law sanctions the custom of temporarily pledging one's wife, concubine, or daughters to another family for purposes of domestic servitude. In the latest edition of the Penal Code I find, appended to the section headed "Pledging wives or daughters," the following note:—"This prohibition refers only to pledging, in "return for money received, one's wife or concubine to another man whose wife or "concubine she is to be (till redeemed), but the practice, so extremely common at the "present day, of poor people pledging, for money received, their wives or daughters to "others for purposes of domestic servitude is not included under this prohibition." A male domestic may either himself make the contract with his employer which binds him to the latter for a number of years, or the domestic may have been handed over by his parents to the master, who pays the parents, may be a sum in advance, so to say, of the wages to be earned. The same is the case with grown-up or elderly female domestics. But the largest majority of all female domestics in China are young girls of more or less tender age, most of whom enter upon their domestic servitude when four or five years old. The reason for this immense demand for young female domestics lies in the system of polygamy which obtains all over the empire, and which has a religious basis. A son being required to continue the family sacrifices, any one whose first wife proves childless will consider it his religious duty either to adopt a son or to take a second or third or

This exceptional class of Chinese residents here in Hong Kong consists principally of the women known in Hong Kong by the popular nickname "hám-shui-múi" (*lit.* salt water girls), applied to these members of the so-called Tán-ká or boat population, the Pariahs of Cantonese society. These Tán-ká people of the Canton river are the descendants of a tribe of aborigines pushed by advancing Chinese civilization to live on boats on the Canton river, being for centuries forbidden by law to live on shore. The Emperor Yung Ching (A.D. 1730) allowed them to settle in villages in the immediate proximity of the river, but they were left by him, and remain to the present day excluded from competition for official honours, whilst custom forbids them to intermarry with the rest of the people. These Tán-ká people were the secret but trusty allies of foreigners from the time of the East India Company to the present day. They furnished pilots and supplies of provisions to British men-of-war and troop ships when doing so was by the Chinese Government declared treason, unsparingly visited with capital punishment. They invaded Hong Kong the moment the Colony was opened, and have ever since maintained here a monopoly, so to say, of the supply of Chinese pilots and ships' crews, of the fish trade, the cattle trade, and especially of the trade in women for the supply of foreigners and of brothels patronized by foreigners. Almost every so-called "protected woman," *i.e.* kept mistress of foreigners here, belongs to this Tán-ká tribe, looked down upon and kept at a distance by all the other Chinese classes. It is among these Tán-ká women, and especially under the protection of those "protected" Tán-ká women, that private prostitution and the sale of girls for purposes of concubinage flourishes, being looked upon by them as their legitimate profession. Consequently, almost every "protected woman" keeps a nursery of purchased children or a few servant girls who are being reared with a view to their eventual disposal, according to their personal qualifications, either among foreigners here as kept women, or among Chinese residents as their concubines, or to be sold for export to Singapore, San Francisco, or Australia. Those protected women, moreover, generally act as protectors each to a few other Tán-ká women who live by sly prostitution. The latter, again, used to be preyed upon—till quite recently His Excellency Governor Hennessy stopped this fiendish practice—by informers paid with Government money, who would first debauch such women and then turn round against them charging them before the magistrate as keepers of unlicensed brothels, in which case a heavy fine would be inflicted, to pay which these women used to sell their own children, or sell themselves into bondage worse than slavery, to the keepers of the brothels licensed by Government. Whenever a sly brothel was broken up these keepers would crowd the shroff's office of the police court or the visiting room of the Government Lock Hospital to drive their heartless bargains, which were invariably enforced with the weighty support of the Inspectors of brothels appointed by Government under the Contagious Diseases Ordinance. The more this Ordinance was enforced the more of this buying and selling of human flesh went on at the very doors of Government offices.

It is amongst these outcasts of Chinese society that the worst abuses of the Chinese system of domestic servitude exist, because that system is here unrestrained by the powers of traditional custom or popular opinion. This class of people, mustering perhaps here in Hong Kong not more than 2,000 persons, are entirely beyond the argument of this essay. They form a class of their own, readily recognised at a glance. They are disowned by Chinese society, whilst they are but parasites on foreign society. The system of buying and selling female children and of domestic servitude with which they must be identified is so glaring an abuse of legitimate Chinese domestic servitude that it calls for corrective measures entirely apart from any considerations connected with the general body of Chinese society.

As regards the peculiarly patriarchal features of the general body of Chinese society in Hong Kong no interference has hitherto been ventured upon either by the Legislature or by the Executive, whilst the common law of England proved utterly inapplicable to the peculiar social systems of the Chinese living here. That prominent feature of patriarchal society, that fountain source of female domestic servitude, polygamy, has never yet been interfered with by the Executive. Even monogamic marriage is neither registered nor recognized by the English courts of Hong Kong as distinct from concubinage in the case of Chinese non-christian families. Although a local Marriage Ordinance has been passed which applies to the 1,500 Chinese Christians in Hong Kong, it does not apply to one of the 134,000 non-christian Chinese residents here. Under these circumstances it seems to me inconsistent to single out the peculiar form of legitimate female domestic servitude practised by the Chinese here in accordance with the time-honoured custom of their native country, the frontiers of which are conterminous

with those of Hong Kong. Hong Kong is indeed but a dot in the ocean, but the Chinese social life of Hong Kong is also but a dot in the ocean of that vast social life which covers a country peopled by 400,000,000 of people. Whilst having no social intercourse with the foreigners of Hong Kong, the pulse of Chinese social life in Hong Kong beats in unison with that of patriarchal China, and its arteries are constantly supplied with new life blood from the same source.

It is one of the lessons which modern sociology has taught, that police prosecutions or legislative enactments must of necessity prove inefficient when intended to cope with any deep-seated social custom, because social reforms cannot be effected by any means except by the accumulated effects of habit on character. I have no doubt whatever that, apart from the abuses which naturally attach to every social custom like that of domestic servitude, any direct interference with the system itself on the part of the Executive or Legislature would do more harm than good. The domestic servant girls of Hong Kong know that they are free. If badly treated they have no hesitation in applying to the police, and bringing a charge of assault against master or mistress. But suppose the police were instructed that every Chinese house-father who has in his family a purchased servant girl should be dragged into the police court and punished, the consequence would be, in the first instance, that every well-to-do house-father would send his family over to the mainland to reside there, and, in the second instance, all worthless servant girls would be thrown upon the hands of the Government. Homes would have to be built for them, work would have to be provided for them, yet Chinese social custom would in secret retain its habit of domestic servitude quietly as before, under another name perhaps, but side by side with the share which the Government, in dealing with all the homeless servant girls thrown upon its hands, would have to take in it. I cannot imagine what permanent good could reasonably be expected to result from such direct interference.

It will be seen from the above that, peculiar as Roman and American slavery was, Chinese slavery and Chinese domestic servitude have some essentially different features entirely their own. It should be noted, moreover, that whilst the slavery of Europe and America was such that the moral sense at all times revolted from it, and constantly required to be pacified by new modes of justification, Chinese slavery and Chinese domestic servitude never required any special pleading to justify it before the tribunal of natural law or moral sense. Indeed, the moment we examine closely into Chinese slavery and servitude from the stand-point of history and sociology, we find that slavery and servitude have, with the exception of the system of eunuchs, lost all barbaric and revolting features, and are but the natural phenomena of a social organism held in the bondage of patriarchalism. As this organism has had its certain natural evolution, it will as certainly undergo in due time a natural dissolution, which in fact has in more than one point already set in. But no legislative or executive measures taken in Hong Kong will hasten this process, which follows its own course and its own laws laid down by a wise Providence which happily overrules for the good all that is evil in this world.

To sum up this somewhat too elaborate argument, and to point its conclusions with special reference to the question of Chinese domestic servitude in Hong Kong, as practised by the general body of the Chinese inhabitants, I venture to say that the foregoing essay, if it proves anything at all, proves the truth of the following propositions:

1. Chinese domestic servitude is so peculiar, and differs so widely in its essential characteristics from negro slavery, that it cannot be logically brought under the provisions of any English enactment regarding that form of slavery. Police prosecution of Chinese domestic servitude under any law made with reference to negro slavery would therefore constitute an act of very doubtful legality.

2. Chinese domestic servitude appears to be a low form of social development when judged by the advanced standard of European civilization, but when judged by the relative standard of Chinese civilization, founded on entirely different principles, it has its legitimation as the best possible form of social development under the circumstances. Absolute condemnation of Chinese domestic servitude would therefore be an act of moral injustice.

3. Chinese domestic servitude is not an excrescence on but a necessary part of the patriarchal order of things which characterises the social life of the Chinese residents of Hong Kong. To prohibit Chinese domestic servitude *in toto* would therefore constitute an act of violence, as striking at the very roots of the social organism, the results of which would in all probability be harmful to the Chinese and embarrassing to the Government.

4. Chinese domestic servitude, hitherto upheld in Hong Kong by the conservative tendencies of the patriarchal organism in China, is bound by the laws of nature to yield eventually to the progressive tendencies of modern society. Undue interference with this process would therefore be an act of injudicious intolerance.

Hong Kong,
25th October 1879.

E. J. EITEL.

No. 2

FOREIGN OFFICE to COLONIAL OFFICE.

SIR, Foreign Office, April 30, 1880.

I AM directed by the Secretary of State for Foreign Affairs to transmit to you a copy of a Despatch from Her Majesty's Minister at Washington, enclosing a printed copy of a message sent by the President of the United States to the House of Representatives on the 12th ultimo, relating to slavery in China; and I am to request that in laying these papers before the Secretary of State for the Colonies you will draw his attention to the reports of Mr. Bailey, the United States Consul General at Shanghai, in which it is alleged that slavery exists in the Colony of Hong Kong.

I am, &c.
(Signed) T. V. LISTER.

The Under Secretary of State,
Colonial Office.

Enclosure 1 in No. 2.

MY LORD, Washington, April 12, 1880.

I HAVE the honour to transmit herewith printed copies of a message which was sent to the House of Representatives by the President, on the 12th ultimo, relating to the existence of slavery in China, and to portions of the Chinese Penal Code concerning expatriation.

A letter from Mr. Evarts to the President encloses copy of a letter from Mr. David H. Bailey, United States Consul General at Shanghai, transmitting a report upon the system of slavery prevailing in China, and giving extracts from the Chinese Penal Code laying down the punishments inflicted upon slaves for certain offences.

Mr. Bailey includes in his Report some observations with regard to the existence of slavery among the Chinese in the British Colony of Hong Kong, and in another letter transmits a number of documents showing its continued existence in that Colony, notwithstanding the efforts of the British authorities to abolish it.

In a recent debate in the House of Representatives upon a Bill for restricting Chinese immigration into this country, Mr. Berry, a member from California, largely quoted Mr. Bailey's Report, and made use of the argument that, if the British authorities had not been able to prevent slavery from being practised in Hong Kong, there would be great danger that, if an unlimited immigration of Chinese were allowed, it would be followed by the prevalence of the same system of slavery in this country.

Mr. Bailey also gives in the enclosed Report an extract from the Chinese Penal Code, laying down the penalties consequent upon the renunciation of allegiance; but Mr. Yung Wing, Chinese Minister to the United States, in a note to Mr. Evarts, states that the section of the Penal Code quoted by Mr. Bailey refers only to cases where conspiracies and overt acts of rebellion against the Government follow the renunciation of allegiance, and not to emigration sanctioned by foreign treaties, which is taken out of the category of treasonable acts, and is therefore beyond the scope of the section in question.

I have, &c.
(Signed) EDWARD THORNTON.

The Marquis of Salisbury, K.G.,
&c. &c. &c.

Enclosure 2 in No. 2.

EXPATRIATION AND SLAVERY IN CHINA.

MESSAGE from the PRESIDENT of the UNITED STATES, transmitting, in response to a resolution of the House of Representatives, reports from the Secretary of State in relation to slavery in China, and portions of the Penal Code concerning expatriation.

March 12, 1880.—Referred to the Committee on Education and Labor, and ordered to be printed.

Executive Mansion,
March 11, 1880.

To the House of Representatives:

I TRANSMIT herewith a Report, dated the 9th instant, from the Secretary of State, with the accompanying papers, in answer to the resolution of the House of Representatives of the 25th ultimo, requesting the President to transmit to that body, if not deemed incompatible with the public interests, copies of such despatches as have recently been received by the Secretary of State from the Consul-General at Shanghai upon the subject of slavery in China, and those portions of the Penal Code of China which forbid expatriation.

R. B. HAYES.

Department of State,
Washington, March 9, 1880.

To the President:

THE Secretary of State, to whom was referred the resolution of the House of Representatives of the 25th ultimo, requesting the President to transmit to that body, if not deemed by him incompatible with the public interests, copies of such despatches as have recently been received by the Secretary of State from the Consul-General at Shanghai upon the subject of slavery in China, and those portions of the Penal Code of China which forbid expatriation, has the honor to submit herewith the papers called for by the resolution. In connection therewith there is also transmitted a copy of the recent correspondence with the legation of China in this city in reference to the provisions of section cclv. of the Penal Code as affecting emigration and the renunciation of allegiance.

WM. M. EVARTS.

Papers transmitted.

Mr. Baily to Mr. Payson, dated October 22, 1879. Mr. Bailey to Mr. Payson, dated October 21, 1879. Mr. Bailey to Mr. Payson, dated December 2, 1879. Mr. Evarts to Mr. Yung Wing, February 17, 1880. Mr. Yung Wing to Mr. Evarts, March 2, 1880.

Mr. BAILEY to Mr. PAYSON.

(Received November 29, 1879.)

United States Consulate General,
Shanghai, October 22, 1879.

SIR,

I HAVE the honor to enclose a report I have thought fit to make upon the subject of slavery in China, with enclosures containing extracts relating to the Chinese law of slavery as translated by Sir George Thomas Staunton. His translation is, I believe, the only one extant and accepted by Chinese scholars as accurate and trustworthy. I am under great obligations to Dr. H. Latham, of this office, for his valuable assistance and research upon the subject of this Despatch.

If Chinese emigration to the United States is to continue and increase with slavery or *quasi* slavery, and concubinage, inbred and permeating its every feature and organization, so that they may be said to be an indissoluble part of its present system, is it not a subject to which American statesmen should turn their attention with some degree of anxiety?

Is not this Chinese system of concubinage which is now being introduced into America through Chinese emigration but a twin sister of polygamy, that other "relic of barbarism" now so firmly rooted in the heart of the American continent, and toward the extermination of which the Government is now bending its energies?

I have, &c.,
DAVID H. BAILEY,
Consul General.

Hon. Chas. Payson,
Third Assistant Secretary of State,
Washington, D.C.

United States Consulate General,
Shanghai, China, October 22, 1879.

Slavery in China.

That slavery exists in China is known to every one who is at all familiar with the institutions of this empire.

All of the prominent writers upon China and the Chinese, from the time of Marco Polo to the present, mention slavery, but no one of them, so far as I know, gives its legal or social status, or attempts to give any idea of the extent to which it prevails.

In view of the fact that China, with her vast population, is assuming more intimate relations with the rest of the world, and in view of the increasing number of her people who are now going out into other countries, and of the swarms that may go in the future seeking labor, carrying with them their civilization and its institutions, I have thought this subject of sufficient importance to the people and the Government of the United States to warrant its thorough investigation, and a report thereupon to the Department.

History of Chinese Slavery.

Slavery existed in the earliest period of Chinese history, but there, as in foreign works on China, nothing is said as to its origin or development.

It may have originated here, as with all people in their primitive stages, in subjugation and conquest, or it may have sprung entirely from the organization of the Chinese family.

This patriarchal family system gives the head of the family absolute power over every member. It makes him the arbiter of the liberty and lives of all its members. He may chastise, mortgage, sell, or even kill any or all of them.

The maxim is that "as the Emperor should have the care of a father for his people, "a father should have the power of a sovereign over his family." (Davis, "The Chinese," vol. 1, page 288.)

To fully understand this maxim it must be borne in mind that the Chinese idea of a sovereign is that of an absolute one, with no limit or restraint to his acts but the bounds of human endurance.

V. Möllendorf, in an essay on Chinese Family Law, page 18, says:—

"As was the rule according to the Roman law of the time before Justinian, all persons who depend on a *pater familias*, either grandfather, father, uncle, mother, or husband, stand in China under *patria potestas;* such persons are therefore either the wives and daughters or more distant descendants on the male line.

"The *patria potestas* is the same as the *domini potestas*, the power of the master over his slaves according to the ancient Roman law. The *patria potestas* over children, whether legitimate or adopted, is unlimited.

"The father can do with them as he likes; he may not only chastise, but even sell, expose, or kill them."

The absolute power of the head of the family is therefore such that it amounts to slavery.

It has become a custom for the poor to mortgage or sell their children to the rich, conditionally or absolutely, in great numbers, under this law.

"According to its nature the *datio in adoptionem* is, properly speaking, a sale (*venditio*) to which only the consent of the *pater familias* is required." (See V. Möllendorf's Family Law of the Chinese, page 22.)

This is the testimony of nearly all those who have written of China. Van Möllendorf, quoted above, says that E. H. Parker, of the British consular service, estimates that 50 per cent. of all families in China have children that have been acquired from other families by adoption, or, to designate it more specifically, by purchase.

"As the adoption of children, and the purchase of inferior wives or concubines, is a transaction of constant occurrence, and one in which the real parents lawfully may and usually do receive a pecuniary consideration, it can scarcely be denied that the sale of children in China is practically allowed." (Note in section cclxxv., Staunton.)

The title of property in these children is contained in a bill of sale duly signed and sealed, and in which the same term is used as in the purchase of horses, cows, or any other species of property.

"The Chinese use the same term to indicate the sale and the purchase of children and wives that they use when speaking of the sale and purchase of land, cattle, or any description of property." (Doolittle's Social Life Among the Chinese, vol. 1, page 209.)

ditary princes whose ancestors assisted in establishing the present dynasty. The Emperor has 3,000 in his service, exclusive of 18 castrated lamas, who act as domestic chaplains. Each prince of the blood and Imperial princess is obliged to maintain 30, and so on through the different grades, the number diminishing as the distance from the head of the reigning house increases.

" Every fifth year each prince supplies eight young eunuchs for the palace, but as this contribution does not by any means meet the demand, the general public is called on to send in adults or adolescents as candidates for the painfully-acquired honor of palace employment. As a matter of fact, there is no dearth of persons willing to submit to castration. Boys are compelled by their parents to offer themselves, while, as to adults, men who are at once poor and lazy, are tempted by the certainty of an assured income, with little or nothing to do for it, and men with a peculiar form of ambition are seduced by the mystery and importance of the duties supposed to be confined to eunuchs.

" Thus it happens that at the present moment some of the eunuchs in Peking have wives and families. But when a eunuch dies, he is buried, not with his family, whether he has one of his own or not, but in a place specially set apart, whither, every spring and autumn, a body of eunuchs repairs to offer those sacrifices which, in the ordinary course of life, are offered by children to the manes of their fathers."

In former times this class was an important class of persons. They had a large part in the control of the Government. Under some of the emperors they had the entire control of affairs. They formed conspiracies for the assassination of ministers, heirs to the throne, and even of emperors, which were sometimes successful. Under the Tartar rule, however, they have not been able to exercise much influence, but, from their positions within the imperial palaces, they may at any time be the cause of important changes.

The second class—Concubines.—This is a numerous class; every man who is able to buy and maintain them has one or more concubines. These are invariably the subject of bargain and sale, and, as quoted above from Doolittle, there is a regular bill of sale given, and the term " sale " is used.

Davis, in " The Chinese," vol. I., page 288, says:—

" A man is even able to sell his children for slaves, as appears from constant practice. How completely the children of concubines pertain to the lawful wife is proved by this passage in the drama of ' An heir in old age,' where, in addressing his wife, the old man says, ' Seaou-mei is now pregnant; whether she produces a boy or a girl, the same will be your property; you may then hire out her services or sell her, as it best pleases you.' The handmaids are in fact only domestic slaves."

The buying of young girls of poor people, and rearing and educating them to be sold as concubines, is an extensive business.

The cities of Yangchow and Suchow are famous for furnishing great numbers of concubines, for which purpose they bring up good handsome young girls, whom they buy up elsewhere; teaching them to sing, to play on music, and, in short, all sorts of accomplishments belonging to young gentlewomen, with a view to disposing of them at a good price to some rich mandarin. (Du Holde, vol. I., page 305.) A concubine is always a subject for sale or hire, with the exception, however, that if the original bill of sale stipulated that she is sold only to be used as a concubine, she cannot be sold to be a labor slave or to be a prostitute.

She has no voice in the management of the house; she cannot control her own children; she is not only a slave to the passions of her master, but she is a slave to the envy, jealousy, and hatred of the wife of the master.

She may be chastised by either, and may be made to do household work. This is what she is liable to. Her ordinary lot is, however, far different. If her master is rich she is dressed finely, loaded with jewelry, has several servants, usually slaves, at her service, and has a far easier life than the wife of the house.

There are no limits to the supply of female children for this purpose. The poor are anxious that their female children, when sold, shall become concubines rather than labor-slaves or prostitutes. This desire, no doubt, arises in part from the natural parental solicitude that their offspring may be happy and prosperous, but in part also from the fact that, as a concubine of a rich man, she can help her poor relatives.

The Emperor sets the example, and creates the fashion for his people in this matter.

Williams, in his " Middle Kingdom," vol. I., page 318, says:—

" Every third year His Majesty reviews the daughters of the manchu officers, over twelve years of age, and chooses such as he pleases for concubines. There are only seven legal concubines, but an unlimited number of illegal."

The same work and volume, pages 211 and 212, gives some prices for which persons were sold, which came under the observation of the author :—

"The sole reason in this part of China considered sufficient to justify the sale of a child to be the slave of another, or of a wife to be the wife of some other man, is the excessive poverty of parents or husband, without friends able and willing to aid. The price varies according to the age, sex, appearance of the child, the character and the age of the wife, the dearness of provisions, &c., from a few dollars to several tens or a hundred or two.

"In the year 1858 a man at Fuchow sold his wife for about $20. Another man, about the same time, offered his only son, a bright lad of five or six years, for sale for $16; he was offered $10 by a man who wished to adopt him for his son; which offer he refused. Several years since, a lad who had been attending a missionary free school in this place (Fuchow) was sold by his mother to be a play-actor. A friend saw a girl of about sixteen or seventeen years old, not a year ago, offered for sale for $100 by her parents, who had brought her from her native place, some eighty or one hundred miles to the south of this. A bright girl of about twelve years old was sold by her parents not long ago for about forty thousand cash ($40)."

A writer in the "China Review," vol. 2, page 55, says :—

"A female infant is worth but 100 cash or 10 cents, while a healthy boy two or three days old will fetch $15."

The fourth class—Prostitutes.—Of this class there is little to be said, as all the laws applicable to slaves generally apply with full force to them.

They are a numerous class, and are to be found anywhere in the small country villages as well as in the larger cities. They form no inconsiderable per cent. of the whole population. They are all, at the commencement of their career, slaves.

They are either rescued when exposed by their poor parents at birth, or bought later in life for the purposes of prostitution.

The law, or custom older than any existing law, permits such traffic. It only interferes to prevent a girl who has been bought for a wife, concubine, or labour slave, from being used for purposes of prostitution; and in violation of this prohibition the number of blows is no more than for a petty theft.

In the crowded streets of cities, and in the more thinly-settled country regions, fine-looking female children are kidnapped and carried to distant places, and sold to be raised for those vile purposes. Even grown women, wives and young mothers, are carried away and sold. Persons charged with the offence of kidnapping are often before the courts.

Children are bought by members of the prostitute class, and reared with a view of making the most money out of them. They are consequently well fed, and many of the female accomplishments, such as vocal and instrumental music, taught them; they are not overworked in childhood, as that would make them coarse and masculine.

When from twelve to fourteen years of age the physical part of their occupation commences, the moral development having been going on from infancy from their daily surroundings. For years after the age of puberty they are a source of income to their owners; and when, from advancing age, they are no longer attractive, they are allowed to emancipate themselves at a small price, and they soon manage to buy two or three small girls and then rear them.

And so the system ever revolves,—the bond-woman becoming free only to become the owners of the bound. Although the treatment of these little children is good so far as food and work is concerned, many of them are unmercifully beaten by their owners. The whole system is such as to develop all the worst traits of human character; hence it would be difficult to imagine a more depraved and vicious class of people.

Number of Slaves.

Class No. 1.—*Eunuchs.*—From the use of this class being confined to the imperial families, it is not believed that there are more than 20,000 in the empire.

Class No. 2.—*Concubines.*—It is impossible to arrive at anything like an accurate estimate of the numbers of this class, as all the men of all the classes, who are able, have one or more concubines; and, as they can be purchased and maintained cheaply, it is within bounds to say that one head of a family in five practises concubinage, and a man with moderate wealth may have two or three, or even more. I therefore conclude that there are one-fourth as many concubines as families. If the basis of calculating the number of families be assumed to be the same as with us, and the population estimated at 300,000,000, there are 60,000,000 families in China. Therefore, from the above,

there must be 15,000,000 concubines in the empire, all property,—bought as such, held as such, and liable to be sold as such.

Class No. 3.—*Labor slaves.*—I have no figures by which to arrive at the numbers of this class. I am compelled to rely entirely upon the opinions of the most intelligent natives whom I can reach. They estimate that one family in five holds slaves; and as the richer people have several, I have concluded that the labour slaves are one-fourth as many as the number of families, or 15,000,000. It is very probable that those sold permanently and those mortgaged temporarily are many more than this number.

Class No. 4.—*Prostitutes.*—In a recent decision of Sir John Smale, Chief Justice of the Supreme Court of the British Colony of Hong Kong, he says that in a population of 120,000 Chinese in that Colony there are at least 10,000 slaves, and that some people estimate the number at 20,000.

There is therefore at least one slave to every eleven freemen in that British colony in spite of laws prohibiting slavery.

I have no other data from which to estimate the numbers of this fourth class. I am of opinion, however, that this class considerably outnumbers the second class through the whole empire, and, in summing up these estimates, I conclude that in all there are from forty to fifty million slaves of all classes in China.

The first and second classes are composed of persons of some intelligence and moral character, judged by the Chinese standard.

The third and fourth classes are illiterate, immoral, and miserable creatures.

It would be difficult to imagine people more hopelessly situated than the 30,000,000 of these two classes. They are so inextricably bound, that usually the only hope for release from their misery and degradation is in death.

To recapitulate:—

1. Slavery does now and has prevailed extensively in China through her whole historic period.
2. That the present slavery of China has grown out of the patriarchal family organization.
3. That the law of the Chinese family gives the *pater familias* absolute power and control over the members of the family.
4. That this power and authority are transferrible by mortgage or sale, and can be exercised, when so transferred, as by the original head of the family.
5. That the slaves of China are divided into four classes, and that these four classes comprise one-sixth of the whole population of the empire.
6. That, judging from the result of thirty-seven years' experience by the British authorities in Hong Kong, there is vitality and strength enough in the Chinese family law and in the system of Chinese slavery to enable them to defy foreign laws and courts even in foreign countries.

DAVID H. BAILEY,
Consul General.

SECTION CXV.

If any master of a family solicits and obtains in marriage for his slave the daughter of a freeman, 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.

A slave soliciting and obtaining a daughter of a freeman in marriage shall also be punished in the same manner, and if the master of the slave consents 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 CXVI.

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 harbors 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 punish-

ment shall be reduced one degree. The marriage present in all such cases is forfeited to Government.

When, however, the person harboring or marrying the fugitive is really ignorant of her criminality, he shall not be subject to any punishment, and shall even be entitled to demand the return of the marriage present.

Section CCLXXII.

If hired servants or slaves steal from their masters or from each other, the punishment shall be one degree less severe than in ordinary cases of theft, and the thief shall not be branded.

Note.—Notwithstanding the tenor of this article, it is provided in one of the supplementary clauses that the punishment of slaves guilty of theft shall be at the least equal to that of thieves in general, and one degree more severe when the offence is committed by them in combination with strangers.

Section CCXCIV.

Whoever is guilty of killing his son, his grandson, or his slave, and attributing the crime to another person, shall be punished with 70 blows and one and a half year's banishment.

Any slave attributing, previous to burial, the death of his master to a person innocent thereof, shall, if aware of the falsehood of the imputation, be punished with 100 blows and three years' banishment.

Section CCCXIII.

A slave striking a freeman shall, proportionally to the consequences, be punished one degree more severely than is by law provided in similar cases between equals. If the blow produces entire disability and incurable infirmity, the offender shall be strangled. If death ensues, the offender shall be beheaded.

A freeman striking a slave shall in like manner be punished less severely by one degree than in the ordinary cases of the same offence; but in the case of the death of a slave in consequence of the injury received, and in the case of a slave having been killed designedly, the offender shall be strangled. Slaves striking, wounding, or killing one another shall be punished as already provided in ordinary cases between equals.

In cases of stealing, and other similar offences, between free persons and slaves, the law of diminution and aggravation of punishment shall not take effect.

Striking the slave of a relation in the third or fourth degree, but without producing a cutting wound, shall not be punishable. If the blow produces any greater injury short of occasioning death, the punishment shall be two degrees less severe than in ordinary cases.

Striking the slave of a relation in the second degree shall be punished three degrees less severely than in ordinary cases. If in either case the blow occasion death, the offender shall be punished with 100 blows and three years' banishment; if the blow prove mortal, and has likewise been struck with an intention to kill, the offender shall suffer death by being strangled.

In the case of killing accidentally, no punishment shall be required.

Striking the hired servant of a relation in the third degree, without producing a cutting wound, shall not be punished.

Section CCCXIV.

All slaves who are guilty of designedly striking their master shall, without making any distinction between principals and accessories, be beheaded.

2. All slaves designedly killing, or designedly striking so as to kill their masters, shall suffer death by a slow and painful execution. If accidentally wounding, they shall suffer 100 blows and perpetual banishment to the distance of 3,000 li; not being allowed, as under similar circumstances in ordinary cases, to redeem themselves from such punishment by a fine.

Note.—This part of the law denouncing punishment even in cases which are admitted to have been purely accidental is in some degree modified in the supplemental clauses.

Slaves who are guilty of striking their master's relations in the first degree, or their master's maternal grandfather or grandmother, shall be strangled at the usual period. If more than one are concerned, the principal shall be strangled, and the rest suffer the punishment next in degree.

iminal intercourse with any of the inferior wives shall, generally speaking, be less than the case of principal wives by one degree.

Section CCCLXXIII.

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

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

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

Section CCCLXXIX.

No private individual, nor any officer of Government, excepting only the princes of imperial family, shall presume to educate castrated children in order to their being ployed as eunuchs in their domestic establishments. Every breach of this law shall punished with one hundred blows and perpetual banishment to the distance of three ousand li; and the castrated children shall be sent back to the families whence they re taken or to which they belonged.

Note.—The number of eunuchs employed within the precincts of the imperial palace ever been considerable; and from the access they must necessarily have at all times the sovereign, in the capacity of his domestic servants, it is not improbable that they y still continue to exert some degree of undue influence; it does not, however, appear t they are ever likely to enjoy, under a Tartar dynasty, that exclusive and dangerous fidence which, while the government was in the hands of native princes, was some- es reposed in them.

Section CCLXXV.

The offence of entrapping and carrying off for sale, or persuading to come away ntarily for the same purpose, the lawful slave of any person, shall be punished one ree less severely than that of kidnapping a free person under similar circumstances.

Any person who sells his children or grandchildren against their consent shall be ished with eighty blows.

Note.—Although it would appear from this restriction that the power of a parent r a child, according to this Code, is much less extensive than that allowed by the ient Romans, yet as the adoption of children and the purchase of inferior wives or ncubines is a transaction of constant occurrence, and one in which the real parents fully may, and usually do, receive a pecuniary consideration, it can scarcely be denied t the sale of children in China is practically allowed.

Note.—It is to be observed, indeed, that the slavery which is recognized and tolerated the laws of China is a mild species of servitude, and perhaps not very degrading in a ntry in which no condition of life appears to admit of any considerable degree of onal liberty and independence.

Mr. Bailey to Mr. Payson.

United States Consulate General, Shanghai,
21st October 1879.
(Received November 29.)

Referring to my Despatch dated 21st October, relating to "*slavery in China*," ve the honor to enclose herewith a copy of section cclv. of the Penal Code of China, ranslated by Sir George Thomas Staunton, Bart., F.R.S., which is the only translation r made, and which is accepted as accurate and authoritative.

As my Despatch did not attempt to treat of penal servitude, I did not transmit section with the enclosures relating to slavery.

t is, however, of so much importance at this juncture of Chinese emigration to the ed States, and relates so forcibly to the question of the citizenship of this class of ants, that I have thought it my duty to transmit it with a special Despatch for the nation of the Department.

this connection I have to remark that the patriarchal organization of society in a is such as to make the enforcement of this law easy and effective. The elder ber of the family, the *pater familias*, has almost unlimited control and power over y member of the family, and he is held to a close accountability for the actions of

all members of his family; not only is *he* held, but every other member of that family has a responsibilty in the matter of the actions of all the other members, and is held accountable for their conduct to a certain degree.

The whole system of family relations is so interlocked in domestic life, and interwoven with duties and obligations to the State, that it may almost if not quite be said that one is responsible for all, and all are responsible for one, in all the different branches of the family, even to remote degrees and to remote countries.

The whole Chinese philosophy inculcates this absolute power of the *pater familias* over all the members of the family to the farthest degree, the duty of the most implicit obedience due by them to the head of the family, and of the accountability of all members of the family, as well as the head, for the conduct of any one of the family.

When a Chinese subject goes out to any other country, all the other members of his family remaining in China are so many hostages that he will return, and that he will maintain his allegiance to his country.

The horrible punishment which may lawfully be inflicted on these hostages is sufficient to account for the rarity of instances of naturalization which has occurred in the history of Chinese emigration to the United States. This is the text and the theory of the law, and no doubt has been the practical operation of the law for ages.

I do not assert that the full vigor of this section of the Penal Code has not been modified by the contact of China with western nations and modern ideas in the last two or three decades.

I believe that foreign intercourse with China is gradually effecting great changes, and will in time remove many of the objectionable and repulsive features of her practices and systems; but that change will be very slow, very methodical, for the whole Chinese fabric of society and government is surrounded by so much that is hallowed by tradition, experience, the long duration of the empire, the teachings of her sages and philosophers, as to make her people the most inapt of all people to believe in the efficacy of modern ideas and a new civilization.

I have, &c.,

DAVID H. BAILEY,
Consul-General.

Hon. Charles Payson,
Third Assistant Secretary of State,
Washington, D.C.

PENAL CODE OF CHINA.

[Translated by Sir GEORGE THOMAS STAUNTON, Bart., F.R.S.]

SECTION CCLV.—RENUNCIATION OF ALLEGIANCE.

All persons renouncing their country and allegiance, or devising the means thereof, shall be beheaded; and in the punishment of this offence no distinction shall be made between principals and accessories.

The property of all such criminals shall be confiscated, and their wives and children distributed as slaves to the great officers of State.

Those females, however, with whom a marriage had not been completed, though adjusted by contract, shall not suffer under this law. From the penalties of this law, exception shall also be made in favour of all such daughters of criminals as shall have been married into other families. The parents, grandparents, brothers, and grandchildren of such criminals, whether habitually living with them under the same roof or not, shall be perpetually banished to the distance of 2,000 li.

All those who purposely conceal and connive at the perpetration of this crime shall be strangled.

Those who inform against and bring to justice criminals of this description shall be rewarded with the whole of their property.

Those who are privy to the perpetration of this crime, and yet omit to give any notice or information thereof to the magistrates, shall be punished with 100 blows, and banished perpetually to the distance of 3,000 li.

If the crime is contrived, but not executed, the principal shall be strangled, and all the accessories shall each of them be punished with 100 blows and perpetual banishment to the distance of 3,000 li.

If those who are privy to such ineffective contrivance do not give due notice and information thereof to the magistrates, they shall be punished with 100 blows and banished for three years.

All persons who refuse to surrender themselves to the magistrates when required, and seek concealment in mountains and desert places in order to evade either the performance of their duty or the punishment due to their crimes, shall be held guilty of an intent to rebel, and shall therefore suffer punishment in the manner by this law provided. If such persons have recourse to violence, and defend themselves when pursued by force of arms, they shall be held guilty of an overt act of rebellion, and punished accordingly.

Mr. Bailey to Mr. Payson.

United States Consulate General,
Shanghai, 2nd December 1879.

Sir, (Received 7th January 1880.)

Referring to my Despatch, of 20th October 1879, covering a paper on the subject of "Chinese slavery," I now have the honour to transmit herewith some documents in print, extracted from the Hong Kong and Shanghai newspapers, relating to the same subject.

Enclosure No. 1 is the decision of Sir John Smale, Chief Justice of the Supreme Court of Hong Kong, and shows that as long ago as January 1845 the British Government notified all residents of that Colony by a royal proclamation that—

"Whereas the Acts of the British Parliament for the abolition of the slave trade and for the abolition of slavery extend by their own proper force and authority to Hong Kong; this is to apprise all persons of the same, and to give notice that these will be enforced by all Her Majesty's officers, civil and military, within this Colony."

That at the present time there are at least 10,000 slaves in this Colony, and that the trade in human chattels has been continuously carried on under the very eyes of the officials, and that posters can be seen daily in public places offering rewards for the return of fugitive slaves.

Enclosure No. 2* is an editorial from the "Hong Kong Daily Press" upon this decision.

Enclosure No. 3* is an extract from a recent editorial in the "North China Daily News" upon the same decision, and contains some references to the Family Law of China, confirmatory of my expressed opinion that the basis of this slavery is exclusively the patriarchal family organisation.

Enclosure No. 4 is a memorial by more than ten thousand of the Chinese gentry, merchants, and other people of Hong Kong, to the Governor of that Colony, praying that the British laws relating to the slave trade and slavery be not enforced in Hong Kong. This petition contains the most complete and convincing proof of all the views set forth in my paper on that subject, and will render nugatory all denials of the existence and prevalence of slavery in China, or any apology or vindication relating to its character.

Enclosure No. 5* is an editorial from the "Hong Kong Daily Press" upon the petition.

I have to remark that this is not a new subject to me, and I would refer the Department to my Despatches from Hong Kong, printed in the Foreign Relations Correspondence, 1871, pages 194 to 221 inclusive, and in 1873, pages 203 to 208 inclusive, together with others on file in the Department, for the views I then held upon the subject. What I have since seen and learned only tends to make my convictions stronger that this is real slavery, and that it prevails in every part of the empire and among Chinese wherever they go.

I repeat that Chinese slavery is an outgrowth of the family organisation, which, so far as we know, is as old as Chinese society itself.

I see no hope for its abolition here but in the remodelling of the whole family organization,—a herculean task beyond the vision of the most advanced Chinese statesman of this generation.

It is significant to note that the Colony of Hong Kong, where it is now settled by a judicial decision of its Supreme Court, and by admissions in solemn memorial of all the leading native residents, that Chinese slavery exists and ever has existed as an essential feature of the Chinese political and social system, is the entrepôt for all the Chinese emigration to the United States. And perhaps it is worth while to query whether that emigration is not thus shown to have in its every lineament the taint of human slavery?

I have, &c.,
David H. Bailey,
Consul General.

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* Not printed.

of allegiance," which antecedes them both in time and existence; hence their classification under that head or section. Emigration, as sanctioned by foreign treaties, is taken out of the category of treasonable acts, and is therefore beyond the scope of the section.

In Article V. of the Burlingame treaty we find this language, which is conclusive on this point: "The United States of America and the Emperor of China cordially "recognize the inherent and inalienable right of man to change his home and "allegiance."

Accept, Sir, the assurance of my most distinguished consideration.

YUNG WING.

No. 3.

The RIGHT HON. THE EARL OF KIMBERLEY to GOVERNOR SIR J. POPE HENNESSY, K.C.M.G.

SIR, Downing Street, 20th May 1880.

1. I HAVE the honour to acknowledge the receipt of your Despatch of the 23rd of January,* and enclosures, including the extrajudicial declaration of Chief Justice Sir John Smale as to "Slavery in Hong Kong."

2. The points presenting themselves for consideration in these papers are—

a. kidnapping,
b. brothel slavery,
c. purchase for adoption and domestic service, and
d. the legal effects of extrajudicial declarations, and the power of a Judge to direct prosecutions.

3. I will not allude further to the last point than to say that, apart from the question whether Sir John Smale's declaration is well founded in fact or in law, I should have been glad if, instead of adopting this form of expressing his views, he had addressed, at all events in the first instance, a memorandum to yourself, which would have equally answered his purpose of bringing forward the subject, and would have had the advantage of enabling you to verify the statements of fact in the memorandum before submitting it for the instructions of the Secretary of State.

4. With regard to kidnapping, the provisions of the local law (Ordinances 4 of 1865, and 2 of 1875) ought to be sufficiently stringent, but it appears that the practice being on the increase certain Chinese gentlemen in November 1878 asked permission to form themselves into an association for its prevention, and that a committee appointed by you to inquire into the subject suggested that the petitioners should form themselves into a company for the purpose under the "Companies Ordinance 1865." It does not appear that anything further has been done in the matter, and I regret that so much valuable time has been lost. I therefore request that you will at once thank these Chinese gentlemen for their offers of assistance in repressing this form of crime, and that you will allow them to form themselves into an association of whatever kind they desire. But, in order to obtain official recognition, its rules and organisation should be made known to and approved by the Colonial Government. You will, of course, give them such assistance as you may find practicable, and especially you will instruct the police to co-operate with them in bringing to justice all offenders whom they may succeed in tracing. If the association as at first organised should be found insufficient it will be time then to consider what other steps should be taken.

5. With regard to brothels, I may observe that the inmates, being on British soil, are and always have been legally free, that any complaints of ill-treatment or coercion by their keepers at any time ought to have been dealt with by the authorities, and that the proposed Chinese Association would have given useful assistance in discovering cases of ill-treatment and of purchases of females for purposes of prostitution. But I desire to be more precisely informed what is the law referred to in the 7th paragraph of your Despatch, what steps you have taken to enforce it in order to secure the freedom of these women, and with what results. I may remind you that the Brothel Commission have recom-

* No. 1.

mended, and that you have supported the recommendation, that "houses for the sole use of Chinese should not be in any way subject to Government supervision." It is desirable that I shall receive your reply on this point without delay, as I am not satisfied that your present proceedings are altogether in accordance with that recommendation, and I am consequently unable to form a conclusive opinion on the report of the Brothel Commission.

6. The buying and selling of children for adoption or domestic service has been condemned by Sir John Smale as slavery, and as contrary to Chinese customs as well as to British law. But both Dr. Eitel and the Chinese gentlemen who, in November 1878, petitioned to be formed into an association for the suppression of kidnapping, and of the purchasing of females for purposes of prostitution, represent that there is no connection between the practice of adoption or domestic service and slavery; that (contrary to the statement of Sir John Smale) these institutions are recognised and prevalent in China; that the custom has its foundation in the most sacred religious obligations and in the necessities of the poor; that the children are well cared for, and when they reach maturity are placed out in life or given in marriage, and become as free as any other Chinese men or women; that if the adoptive parent or master does not do his duty the actual parents have their remedy; and that the lot of the children is far happier than if they had been left to their ordinary fate.

7. I wish to be informed whether these statements are admitted by yourself and the Chief Justice as an accurate representation of the facts connected with the adoption of children and domestic servitude in Chinese families, and for what period and to what extent the persons purchased for these purposes cease to be free agents.

8. I also desire to know what is the precise offence which in the 20th paragraph of your Despatch you propose to prosecute, and whether you would prosecute it as an offence at common law, or under any, and, if so, what statute or ordinance.

9. I request also that you will ask the Chief Justice to be good enough to specify the Acts of Parliament which he considers have not been enforced in Hong Kong, and the particular sections to which he alludes. It may become necessary to consult the law officers on the subject, and I therefore wish to be sure that I am in possession of the exact views of yourself and of the Chief Justice. I feel at liberty to ask Sir John Smale for this information, seeing that his declaration, although given from the Bench, was not a judicial decision upon a question at issue before him, and did not proceed upon particular facts ascertained in evidence, nor upon the argument of counsel, and that I am therefore not precluded from inviting his assistance, which I might have felt some difficulty in doing had the declaration formed part of an authoritative judgment of the Court.

I have, &c.,
KIMBERLEY.

Governor Sir J. Pope Hennessy.

No. 4.

COLONIAL OFFICE to FOREIGN OFFICE.

Downing Street, 5th June 1880.

SIR,

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 30th April,* forwarding a copy of a Despatch from Her Majesty's Minister at Washington, with enclosures, relative to slavery in China; and in reply I am to transmit, for the information of Earl Granville, a copy of a Despatch † which has been recently addressed to the Governor of Hong Kong on the subject.

I am, &c.,
JOHN BRAMSTON.

The Under Secretary of State,
Foreign Office.

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* No. 2.

† No. 3.

MINUTE by the ACTING CAPTAIN-SUPERINTENDENT OF POLICE.

I think it well that Dr. Eitel should see the father, and hear his statement.

(Signed) C. V. CREAGH.

8th May 1880.

REPORT by Dr. EITEL.

I have the honour to report that after seeing the alleged father of the little boy, Au Múi, mentioned within, also So Ling and the shopkeeper who stood security, I found that the story they have to tell tallies with that given in the statement which Mr. Creagh forwarded. The alleged father of the little boy gave as the reason why he wished to give his little boy to So Ling as an adoptive child, that he was going to Annam, and that, as a widower, he could not provide for the boy.

I then asked the shopkeeper who is engaged in the Nam Pak Hong business to bring me a written statement of all the particulars of the case after submitting it to the principal members of the Nam Pak Hong Guildhall Committee for their opinion. This was promised, but I have not received the paper yet.

To-day, acting with the approval of the Acting Colonial Secretary, I went on broad the *New Fokien*, and had the boy handed over to me, and, after communicating with the Tung-wá Hospital Committee, and the Chinese Society for the Protection of Women and Children, sent the boy to the Tung-wá Hospital, where he will be kept until His Excellency the Governor decides the matter.

I shall forward the papers from the shop which stood security, and the report which will be presented after due enquiry by the Society for the Protection of Women and Children, as soon as I receive the papers. Meanwhile, I place the above-stated facts on record for the information of the Government.

(Signed) E. J. EITEL.

10th May 1880.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

Approved (as to the reference to the Chinese Society for the Protection of Women and Children, and detention of the child in the Tung-wá Hospital).

To the Attorney General (as to legal aspect of the case).

(Signed) J. POPE HENNESSY.

11th May 1880.

MINUTE by the ATTORNEY GENERAL.

It appears to me that this is no case of kidnapping, and there is nothing that would warrant a prosecution for that offence. There will probably be no risk in detaining the child pending the enquiries of the Society for the Protection of Women and Children. But it is clear that the father meant to give his child for adoption; and I do not see how the child could be detained from him, if he should come himself and claim it.

(Signed) E. L. O'MALLEY,

May 12th, 1880. Attorney General.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

Act according to foregoing opinion.

(Signed) J. POPE HENNESSY.

14th May 1880.

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station. Accordingly on the 29th day (7th May 1880) Ú A-shun made a report at the police station, and said Ú A-múi had been lost. I find now that Ú A-múi's uncle Ú Ai has gone nobody knows where. I think that most likely Ai sold the boy to those Fohkien people to be their adoptive son. But I do not know it for certain. I now send you what I have found out so far as to reliable facts, and submit it all to your inspection. As to what should be done in the case, I await the decision of the Government.

(Signed) FUNG MING-SHÁN.

13th day of the 4th moon (21st May 1880).

Translated by
(Signed) E. J. EITEL.

27th May 1880.

Enclosure D.

(*Translation.*)

DEAR SIR,

I HAVE acquainted myself with the contents of your letter commissioning me to enquire into the case of Ú A-múi. I have now made careful detailed enquiries, and herewith state the facts, which are reliable. Please report the matter to the Government Offices, so that the boy may soon return home, as his cousin and aunt are much distressed about the matter. The boy himself also is very desirous to return home.

Yours faithfully,
(Signed) LOK CHIN-WING.

To Mr. Ming-shan.

Translated by
(Signed) E. J. EITEL.

27th May 1880.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

Thank the Society for the Protection of Women and Children; and as to the custody of the child, refer to the Attorney General.

J. POPE HENNESSY.

31st May 1880.

ACTING COLONIAL SECRETARY to MR. FUNG MING SHÁN.

Colonial Secretary's Office, Hong Kong,
31st May 1880.

SIR,

I AM directed by the Governor to request you to convey to the Society for the Protection of Women and Children, His Excellency's thanks for the information you have elicited, and furnished him with, regarding the child Amui sent down from Amoy.

I have, &c.,
(Signed) FREDERICK STEWART,
Acting Colonial Secretary.

Fung Ming-shán, Esq.

MINUTE by the ATTORNEY GENERAL.

I think the proper course would be to restore the boy to the custody of his cousin and aunt mentioned in Lok Chin-wing's letter; the aunt mentioned in that letter, being, I presume, the same person as the stepmother A-ngan mentioned in Fung Ming-shán's report.

(Signed) E. L. O'MALLEY,
Attorney General.

June 1st, 1880.

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MINUTE by HIS EXCELLENCY THE GOVERNOR.

Act accordingly.

(Signed) J. POPE HENNESSY.

1st June 1880.

MINUTE by the ACTING COLONIAL SECRETARY.

Will Dr. Eitel have the goodness to take the necessary steps for the restoration of the boy to the custody of his cousin and aunt?

(Signed) FREDERICK STEWART,
Acting Colonial Secretary.

2nd June 1880.

MINUTE by Dr. EITEL.

Done.

(Signed) E. J. EITEL.

10th June 1880.

No. 7.

GOVERNOR SIR J. POPE HENNESSY, K.C.M.G., to the RIGHT HON. THE EARL OF KIMBERLEY.

(Received August 9, 1880.)

Government House, Hong Kong
June 23, 1880.

MY LORD,

WITH reference to that portion of your Lordship's Despatch of the 20th of May,* referring to paragraph 7 of my Despatch of the 23rd of January 1880,† on brothel slavery in Hong Kong, I have the honour to report that in my opinion the existing law against slavery, if properly enforced, is quite sufficient to secure the real freedom of these women.

2. One of the evils of the brothel legislation in this Colony is that it substituted, to all intents and purposes, a new law instead of ordinary enactments and the common law, for dealing with prostitution, a new tribunal (until 1876) for administering the law, and a small number of low-class officials, called Inspectors of Brothels, in lieu of the ordinary police force.

3. As the late Mr. Charles May, who was for many years senior police magistrate, pointed out, the brothel keepers looked on the brothel inspectors as their protectors. Other witnesses before the Commission refer to the official authority the Government license gives to these keepers; and a late Acting Registrar-General, Mr. Lister, speaks of the keepers as a horrible race, cruel to the last degree.

4. I have no hesitation in recommending that this real or supposed official status, and this protection by Government officers, should be withdrawn from such persons, and that they should be dealt with under the ordinary law. With that purpose in view, I instructed the head of the police to let it be made known that any cases of the detention of women against their will in such houses would be dealt with by the police in the same way as a case of robbery or assault in such houses, and that the freedom of the inmates would not be left in future to the limited and suspicious jurisdiction of the inspectors of brothels.

5. Furthermore, the Chinese Society for the Protection of Women and Children was consulted on the subject by Dr. Eitel, at my request. These gentlemen, as your Lord-

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* No. 8.

† No. 1.

ship anticipates, readily promised their assistance. Indeed the existence of the Society has already had a beneficial effect.

I have, &c.,

The Right Hon. the Earl of Kimberley, &c. &c. &c.

(Signed) J. POPE HENNESSY.

No. 8.

The Right Hon. the EARL OF KIMBERLEY to Governor Sir J. POPE HENNESSY, K.C.M.G.

Sir, Downing Street, August 27, 1880.

I have the honour to acknowledge the receipt of your Despatch of the 23rd June,* relating to the formation of a Chinese Society for the Protection of Women and Children.

I shall be glad to receive copies of the rules when they have been revised by the Attorney General.

I have, &c.,

Governor Sir J. Pope Hennessy.

(Signed) KIMBERLEY.

No. 9.

The Right Hon. the EARL OF KIMBERLY to Governor Sir J. POPE HENNESSY, K.C.M.G.

Sir, Downing Street, September 29, 1880.

I have the honour to acknowledge the receipt of your Despatch of the 23rd June†, on the subject of brothel slavery.

2. I have read this Despatch with some feeling of disappointment, as it does not appear to me to meet the real difficulties of the subject.

3. You state that "the existing law against slavery, if properly enforced, is quite "sufficient to secure the real freedom of these women;" and again, "that any cases "of the detention of women against their will in such houses would be dealt with by "the police in the same way as a case of robbery or assault in such houses." But it need scarcely be pointed out that the detention of a prostitute in a brothel against her will is an exceptional occurrence, for which the legislation introduced by Sir A. Kennedy in 1873 and 1875 effectively provides whenever evidence is obtainable.

4. The question, how to deal with what is termed brothel slavery, raises much wider issues. The practices known under that name arise out of certain pecuniary transactions habitually spoken of as purchase and sale,—transactions well understood, but very difficult to prevent; the result of which is that young women are compelled to live a life of degradation and practical slavery, although not under actual personal restraint. Something more is therefore needed than police interference confined to cases of forcible detention; and the difficulty which has to be met is that of providing some means for preventing this abominable traffic in women who are bought elsewhere in order to be made prostitutes in Hong Kong, or are virtually purchased in the Colony for that purpose, and for giving protection in the Colony to the women themselves.

It is generally admitted that the personal liberty of these women is not directly interfered with to any very serious extent; and when your Despatch of the 23rd January last,‡ dealing with the question of slavery, was received, stating that you had given orders "that the law, whatever may be the consequence to the brothel system, "should be strictly enforced so as to secure the freedom of these women," it was hoped that you had discovered some method of checking this traffic in women, and of

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* No. 6. † No. 7. ‡ No. 1.

dealing with the whole subject of brothel slavery in a practical manner; and you were asked by means of what existing law you were enabled to attain this most desirable object.

5. I am afraid, from the tenour of your reply now under acknowledgment, that I must come to the conclusion that you have not yet fully appreciated the peculiar difficulties surrounding this question, and that you have not formed any distinct plan for grappling with this long-standing evil. The numerous Despatches which have been received from you on this subject have reached no further than to point out the abuses connected with the old system of inspection, and especially with the employment of informers. I give you full credit for having lost no time in putting an end to the revolting practices which had arisen from the employment of these informers; but this measure was taken by you as long ago as the end of 1877; and that particular portion of the subject, having been finally disposed of, need not be further referred to in your Despatches. In dealing with the general question, you do not appear to me to recognize sufficiently that the establishment of the system of licenses and of inspection was a police measure intended to give to the Hong Kong Government some hold upon the brothels, in the hope of improving the condition of the inmates, and of checking the odious species of slavery to which they are at present subjected.

6. Mr. Labouchere, in his Despatch of the 27th August 1856, says, "the Colonial "Government has not, I think, attached sufficient weight to the very grave fact that "in a British Colony large numbers of women should be held in practical slavery for "purposes of prostitution, and allowed in some cases to perish miserably of disease in "the prosecution of this employment, and for the gain of those to whom they suppose "themselves to belong. A class of persons who by no choice of their own are "subjected to such treatment have an urgent claim on the active protection of "Government. I am not at present prepared to say, and I wish you seriously to "consider, in what shape and to what extent it is practicable to give this protection. "But I do not see how it can be given at all till the establishments in which such "practices are supposed to exist are brought under the eye, and in some measure "under the control, of Government. On these grounds, therefore, independently of "those which have been pressed upon you by Sir J. Stirling and others, I think that "these houses of ill-fame and their inmates should be registered, and subjected to "police regulations, in the first instance, of a sanitary character; that a strict medical "inspection should be enforced, and that all diseased persons should be removed to "hospitals and placed under treatment. The expense of their treatment should be "paid either by the public, or, if possible, by the persons from whose control they are "taken; against whom, I will here observe, rather than their unfortunate instruments, "the penal provisions of the law should be mainly directed. A law framed on these "principles, besides the direct effect it would have on the public health, would furnish "some immediate protection to those who are the first victims of the present system, "and would facilitate such further measures as the Government might deem it expedient "to take hereafter." The same views were again expressed in his later Despatch of the 11th August 1857*, and were the grounds upon which the large powers contained in section 7 of the Ordinance 12 of 1857 were given to the police as distinct from the Colonial Surgeon. These humane intentions of Mr. Labouchere have been frustrated by various causes, among which must be included that the police have from the first been allowed to look upon this branch of their work as beneath their dignity, while the sanitary regulation of the brothels appears from recent correspondence to have been almost entirely disregarded. It is now proposed to destroy the machinery which was intended to ameliorate the condition of the women; but before abandoning the present system it is necessary to consider carefully what can be put in its place, since otherwise the evils pointed out by Mr. Labouchere will be left without a remedy. As you have yourself recommended this step, it was reasonable to expect that, with the advantages which you possess of local observation and experience, you would be prepared, if not to submit a detailed plan for the future protection of these unfortunate women, at all events to offer valuable suggestions for the formation of such a plan. Notwithstanding the attention which you have very properly bestowed on the subject, I cannot say that I have found in your Despatches hitherto received much information of this kind, and as the question cannot be left any longer in its present position I must proceed to deal with it, as far as may be possible, with the materials now at my

* Not printed.

disposal. I shall do so without any avoidable delay, but it will, I fear, still be some little time before I can communicate to you my views.

I have, &c.

Governor Sir J. Pope Hennessy, &c. &c. &c.

(Signed) KIMBERLEY.

No. 10.

GOVERNOR SIR J. POPE HENNESSY, K.C.M.G., to the RIGHT HONOURABLE THE EARL OF KIMBERLEY. (Received October 14, 1880.)

Government House, Hong Kong, September 3, 1880.

MY LORD,

1. I HAVE the honour to lay before your Lordship some further papers relating to kidnapping and so-called slavery in Hong Kong.

2. The letters and minutes in these papers explain the questions your Lordship put to me in the Despatch of the 30th of June 1880.*

3. Having called for a careful report from the police magistrates and the head of the police on a statement made by the Chief Justice as to the alleged incapacity or inaction of the police, I referred the papers to the Attorney General, who, on the 5th of July 1880, expresses the opinion that those officers have acted correctly, and that there is no foundation for the charge of incapacity or inaction.

4. I am happy to say that, in forwarding the criminal calendar on the 7th of July 1880, the Chief Justice, says:—

"The diminished number of serious crimes in the Colony is as creditable to the police as it is satisfactory to the public."

In the same letter the Chief Justice expresses his satisfaction at the proposal (which your Lordship has sanctioned) † of the Chinese community to assist in putting down kidnapping.

5. With reference to what your Lordship says in paragraph 6 of the Despatch of 29th July 1880,‡ the remark I have just quoted of the Chief Justice as to the diminution of serious crime, is confirmed by a report just received from one of the acting police magistrates, which I have the honour to enclose for your information. The most recent reports of the police officers to the same effect were enclosed in my Despatch of the 16th ultimo.‡

I have, &c.,

The Right Hon. the Earl of Kimberley. &c. &c. &c.

(Signed) J. POPE HENNESSY.

Enclosure 1 in No. 10.

FURTHER PAPERS relating to KIDNAPPING and so-called SLAVERY in HONG KONG.

The Supreme Court, Hong Kong, June 17, 1880.

SIR,

YOU will have received from the Registrar the Criminal Calendar, sessions for May 1880.

Yong A-ip was, in case No. 3, charged with extortion, but that was properly abandoned, and in case No. 12 he was charged with obtaining money under false pretences, viz., pretending that Mulgraves, inspector of nuisances, required bribes, which he, on such false pretences, obtained and kept. It came out that Mulgraves, through his wife, said, "We are Government officials, and cannot take bribes." Mulgraves brought the matter to the notice of the Executive. I recommend him to the favourable consideration of his Excellency the Governor.

In case No. 8, Ch'an A-leng was charged with unlawfully and by fraud taking away a girl 14 years of age from the Colony for the purposes of emigration. The evidence showed a case of taking her to Singapore for the purpose of selling her there as a prostitute.

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* No. 5. † No. 3. ‡ Not printed.

This case was an instance of the inherent practice of the Chinese to sell young girls. Hatred of the fate intended for her and unusual energy in the girl alone saved her.

In passing sentence in this case, I took occasion to express my despair that any amelioration of the appalling system I have laid open would be produced, seeing that of the 10,000 cases admitted to be existing in the Colony of domestic slavery (or bondage, as Dr. Eitel, making a distinction without a difference, prefers to call it), not one case has, so far as I see, been brought by the police before the magistrates, and that of the sales by parents of their children, admitted to be common, I find one only has been brought before a magistrate, and then after it was proved it was abandoned by the inspector, he alleging as his sole ground for doing so that he was forbidden to prosecute.

The evils within this Colony which I have denounced remain unchecked, owing to the incapacity or inaction of the police.

I beg respectfully to bring these facts to the notice of his Excellency the Governor, and to disclaim all responsibility on the judges that the grave state of things which has been exposed remains and promises to remain unchecked.

I have, &c.,
JOHN SMALE,
Chief Justice.

The Honourable Dr. Stewart,
Acting Colonial Secretary,
&c. &c. &c.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

To the police magistrates and the head of the police for a careful report as to the facts. Then to the Attorney General for his opinion.

June 17, 1880.

J. POPE HENNESSY.

MINUTE by the ACTING POLICE MAGISTRATE.

Magistracy, Hong Kong,
July 2, 1880.

I HAVE read the letter of his Honour the Chief Justice addressed to the Honourable the Acting Colonial Secretary, calling attention of the Government to the existence of the system what is popularly termed the "domestic slavery" in this Colony, and complaining of the inaction of the police to suppress it.

In accordance with the minute of his Excellency the Governor thereon calling for a report from the police magistrates, I have the honour to state that since the short time I have been on the magisterial bench it is natural that I have not acquired so much experience as that of my colleague, but from what I have seen I would venture to say that cases arising directly or indirectly from the so-called system of slavery constantly come before the police court.

They consist principally of two classes—those that relate to women and girls for immoral purposes, and those that relate to boys and girls for honest purposes. With regard to the former class of cases, I would mention that whenever it is proved that a woman was decoyed into or out of the Colony for the purpose of prostitution the magistrates do not hesitate to convict the offender and award a condign punishment, or, if it should be deemed desirable, to commit the accused for trial at the Supreme Court. Ordinance No. 2 of 1875 was especially enacted to meet cases of this kind, and, in my opinion, it has borne good fruit, as instances of kidnapping or decoying do not now occur so frequently as they did some years since.

With regard to the other class of cases which are brought before the police court, it is not so easy to deal with them.

It not unfrequently happens that a woman, being in distressed circumstances, sells or pledges her daughter for a sum of money, and after a short time makes a false report to the police that her daughter has been lost or is being forcibly detained in a certain house, with a view to invoke the assistance of the police to restore her daughter to her.

The magistrate has not only to protect the girl from being ill-used, but has also to see that the purchaser be not unjustly punished on a false charge, and that the claimant is the real mother of the girl. But when a *bonâ fide* case of detention or ill-treatment of a girl is made out, the magistrate either punishes the offender summarily or sends the case to the higher court for trial. It is, however, feared that a great majority of this kind of cases coming under the cognizance of the magistrates are got up merely for the sake of gain. I will state a case which came before me in May last, and which will

better illustrate my meaning. About two years ago a poor woman, being in need of money, pledged her daughter, who was then seven years old, to a cook employed in Messrs. Jardine, Matheson, and Co.'s, for $36. The girl was taken to the cook's family house. She was well treated and well fed, and when she was ill a good deal of money was spent on her account. In last April her mother was asked to repay the amount she had borrowed, and to take back her daughter. This she was unable to do, as she had no money. About a month afterwards she came to the police court and complained that she was ready to redeem her daughter, but that the cook was unwilling to give her up.

Upon this a warrant was issued and the cook was arrested for unlawful detention of the child. When the case came to be investigated I found that the woman had no money, and that the sole object of her coming to the Court was to ask the Court to order the cook to return her daughter to her without payment. The girl on being questioned expressed a strong wish to be allowed to remain in the cook's family rather than to go back to her mother. Naturally so, because she had intelligence enough to perceive that her mother, being in very poor circumstances, was not in a position to give her nice dress and plenty of food, which she had been enjoying in the cook's family, and that if she went back to her mother she might in future again pledge her to another person who might not be so good to her. However, I felt bound to inform the cook that he had no legal right and control over the girl, and I had no alternative but to order the girl to be restored to the mother.

I may be permitted to add that in my opinion the police ought not to be blamed for the present state of things. When the servant girls (or slave girls as some prefer to term them) in the families in this Colony are contented with their lot, and their parents do not claim them, the police cannot be expected to interfere. If they did, the consequences would be very serious. The police would have to find a home for them, as I fear most of the girls' parents are not in the Colony.

NG CHOY,
Acting Police Magistrate.

REPORT by the ACTING POLICE MAGISTRATE and ACTING CAPTAIN-SUPERINTENDENT OF POLICE.

SINCE the passing of Ordinance No. 2 of 1875, the police have been in the habit of bringing all suspected cases of illegally detaining children before the magistrates for investigation, and if it appeared from subsequent inquiry that the child had been properly treated, and that the defendant had acted with the parents' consent, the case was invariably discharged.

Although contracts for the purchase or sale of human beings are of course invalid in this Colony it was not customary for the police to prosecute or the magistrates to punish either parents or legal guardians who, according to Chinese custom, sold their children as servants or for adoption, or those who bought children for either purpose from their guardians. The practice while not prohibited by any law was generally regarded as beneficial to those concerned, especially the children, who were rescued from destitution and provided with homes in well-to-do families, without being deprived in any degree of the protection of the English law, which guarded them against ill-treatment.

Buying and selling children by the Chinese has been considered a harmless proceeding, its only effect being to place the purchaser under a legal and moral obligation to provide for the child until the seller chose to repudiate the bargain, which he could always do under English law.

But when the Chief Justice on 6th October 1879, in his judgment in the case of R. *v.* Li A-kak, pronounced all such bargains to be illegal, and stated that those who contracted them should be prosecuted for dealing in slaves, my colleague and myself considered that in future it would be our duty to commit all such cases for trial in the Supreme Court.

On 10th October 1879, however, the magistrates received his Excellency the Governor's Minute, on the correspondence relating to the girl To Tsün Fu (a copy of which I attach), directing that no action should be taken in such cases until his Excellency had learnt the views of the Secretary of State. In view of this Minute and the judgment of the Chief Justice referred to above, I considered that the best course to adopt would be to call on the defendants in each case to find security under Section XXI. of Ordinance No. 8 of 1858, to appear in Court to answer the charge at

any time within 12 months, if called upon to do so. I have accordingly followed that practice in dealing with the few cases which have since come before me.

C. V. CREAGH,
Acting Police Magistrate and
28th June 1880. Acting Captain-Superintendent of Police.

[Copy.]

POLICE MORNING REPORT of 15th October 1879.

Girl claimed. Owner will be prosecuted.

A GIRL named To Tsün Fu, aged seven, found straying on the hillside, claimed by Aú A-ping, No. 33, Queen's Road East, who states that he bought her in his own country, about 12 months ago, for $35. Summons to be taken out.

W. M. DEANE,
Captain-Superintendent of Police.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

No. 11. Has the Attorney General authorised this prosecution?
16th October 1879. J. POPE HENNESSY.

MINUTE by the ACTING ATTORNEY GENERAL.

CERTAINLY not, and I never know of any prosecution like this, unless referred to me by the Governor, until cases are committed.

J. RUSSELL,
16th October 1879. Acting Attorney General.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

MR. MARSH,

REQUEST Mr. Deane to make a special report, and on receiving it refer such report to the Attorney General. I am awaiting the Attorney General's views on the statements recently made by the Chief Justice, and it is my intention to submit the questions, when I have received Mr. Russell's views, and the opinions of other experienced executive officers, to the Secretary of State.

16th October 1879. J. POPE HENNESSY.

CAPTAIN-SUPERINTENDENT OF POLICE to COLONIAL SECRETARY.

Victoria, Hong Kong,
SIR, 17th October 1879.

IN accordance with the commands of his Excellency the Governor, I have the honour to forward a special report concerning case 11 of Police Morning Report of 15th instant.

2. At 4.45 p.m. on the 14th October 1879, a girl named To Tsün, aged seven years, was brought to No. 7 station by Mak A-chün, watchman, Shek-tong-tsui Battery, having been found straying on the hillside. She was afterwards claimed by Aú A-ping, accountant, No. 33, Queen's Road East, who stated that he bought her in his own country, about 12 months ago, for $35, and brought her to this Colony about a month ago to be a servant.

3. I directed that the child should not be given up until further inquiry was made, and for that purpose a summons was applied for at the magistracy against Aú A-ping for detaining the child in this Colony, under Ordinance No. 2 of 1875, Section VII.

4. The summons was granted and is remanded for hearing for one week.

5. The trial of such cases as above is no novelty, but the almost invariable result is the discharge of the prisoner at the magistracy, if the magistrate is satisfied that the defendant's story is true, and that the child is likely to be properly cared for.

I have, &c.,
W. M. DEANE,
The Hon. W. H. Marsh, Captain-Superintendent of Police.
Colonial Secretary,
&c. &c. &c.

MINUTE by the COLONIAL SECRETARY.

REFERRED to the Acting Attorney General.

W. H. MARSH.

17th October 1879.

MINUTE by the ACTING ATTORNEY GENERAL.

HIS Excellency the Governor is now in possession of the observations which I thought the Chief Justice's declaration of the 6th October called for from me, and I think the Governor will now the more clearly see the necessity of referring to the Secretary of State the point (a) of my letter sent in yesterday.

I am glad to see from the minute on this document that his Excellency had already determined on that course.

J. RUSSELL,

17th October 1879. Acting Attorney General.

P.S.—Mr. Deane should make complete private inquiry as to the truth of Aú A-ping's statement, and get further adjournment.

J. RUSSELL.

MINUTE by the COLONIAL SECRETARY.

Submitted.

17th October 1879. W. H. MARSH.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

LET the Captain-Superintendent of Police see these minutes, and also refer them to the police magistrates to note. We had better not move in cases such as Mr. Deane refers to in his letter of the 17th instant until I learn the views of the Secretary of State.

18th October 1879. J. POPE HENNESSY.

MINUTE by the COLONIAL SECRETARY.

REFERRED to the Captain-Superintendent of Police, and then to the magistrates to note.

18th October 1879. W. H. MARSH.

MINUTE by the CAPTAIN-SUPERINTENDENT OF POLICE.

Noted.

W. M. DEANE,

21st October 1879. Captain-Superintendent of Police.

MINUTE by the ACTING POLICE MAGISTRATE.

Noted.

C. V. CREAGH,

28th October 1879. Acting Police Magistrate.

MINUTE by the POLICE MAGISTRATE.

THE case forming the subject of this document was, in the first instance, adjourned for a week upon the application of the inspector prosecuting, to enable him to obtain further instructions in the matter. It was subsequently further adjourned on two occasions through pressure of work. On the 27th instant Inspector Thomson brought on the case, and Mr. Creagh and myself heard it under Section X. of Ordinance No. 2 of 1875, and after taking all the evidence for the prosecution, adjourned it until the 3rd proximo, to enable us to carefully consider the opinion expressed by the Chief Justice in the case of Regina *v.* Keung A-to, in which he ordered the prosecution of the purchaser of the child, and which appears to be a parallel case.

I beg to enclose the depositions in the case for the information of his Excellency.

C. B. PLUNKET,

29th October 1879. Police Magistrate.

MINUTE by the COLONIAL SECRETARY.

Submitted.

29th October 1879. W. H. MARSH.

THE child ought, I presume, to be given up to defendant, if this has not already been done, which does not appear from these papers.

29th October 1879. W. H. MARSH.

MINUTE by HIS EXCELLENCY THE GOVERNOR.

To the Acting Attorney General.

J. POPE HENNESSY.

30th October 1879.

MINUTE by the ACTING ATTORNEY GENERAL.

Mr. PLUNKET tells me that the magistrates have simply adjourned to consider what they will do, and I have handed Mr. Plunket these papers, as he wants the depositions to record his decision.

J. RUSSELL,

31st October 1879. Acting Attorney General.

FURTHER MINUTE BY THE POLICE MAGISTRATE.

In R. *v.* Aú A-ping.

UPON the further hearing of this case upon its merits my colleague and myself discharged the accused, and ordered the child to be given up to him.

C. B. PLUNKET,

12th November 1879. Police Magistrate.

Depositions retained.

MINUTE BY THE COLONIAL SECRETARY.

Submitted.

12th November 1879. W. H. MARSH.

MINUTE BY HIS EXCELLENCY THE GOVERNOR.

Read.

13th November 1879. J. POPE HENNESSY.

MINUTE BY THE ATTORNEY GENERAL.

I HAVE read the reports of the police magistrates, from which I gather that they have acted upon what I conceive to be a generally correct view of their legal duty with regard to questions brought under their notice in cases connected with the so-called slavery system.

Having regard to the law, and to what I have seen of the steps taken to enforce it, I know of no foundation for the charge of incapacity and inaction brought by the Chief Justice against the police.

5th July 1880. EDWARD O'MALLEY.

The Supreme Court, Hong Kong,

July 7, 1880.

SIR,

You will receive, in due course, the Calendar of Cases tried at the Criminal Sessions for June last. The diminished number of serious crimes in the Colony is as creditable to the police as it is satisfactory to the public.

There were in the Calendar seven cases for trial, of which one resulted in an acquittal. In the remaining six cases, there were eight several crimes, of which six convictions were for kidnapping; in other words, of the total convictions, $\frac{6}{8}$ths or $\frac{3}{4}$ths in number were for kidnapping,—a larger number and far greater proportion for such crimes than at any former Criminal Sessions that I remember. In not one case of kidnapping do the police appear to have intervened until their aid was demanded by parties interested.

In case No. 6, I thought it my duty to notice the fact that, although Chan Sz, the brutal brothel keeper at Amoy, claimed to have purchased Chiu Tsan Kuk from her uncle (a resident in this Colony), and was ready to produce the bill of sale by him to her, yet the police took no step to investigate that uncle's conduct, and that he was not charged before the magistrate.

Case No. 6 confirms the view I have on former occasions expressed, that concubines and adopted children are liable to be sold, and that they are in fact sold, at the caprice of their master. In this case it is clear that the concubine and adopted daughter were imbued with this as a common belief; and, so believing, they accepted as a fact the statement made to them by the prisoner that their master had decided to exercise his right and to sell them. This fear alone enabled the prisoner to entice them away.

I venture to express my satisfaction at the proposal by the Chinese community to assist in putting down kidnapping, but their proposed action appears to me to fall short of attempting to punish those who create the supply and the demand,—those who sell to, and those who purchase from, these kidnappers. If these remain unpunished, kidnapping will continue.

I say this without reference to the questions as to the adoption of children and the condition of well-regulated domestic servitude.

I have, &c.,
(Signed) JOHN SMALE,
Chief Justice.

The Hon. Dr. Stewart,
Acting Colonial Secretary,
&c. &c. &c.

No. 11.

The RIGHT HON. THE EARL OF KIMBERLEY to GOVERNOR SIR J. POPE HENNESSY, K.C.M.G.

SIR, Downing Street, November 26, 1880.

I HAVE the honour to acknowledge the receipt of your Despatch of the 3rd of September last.*

I desire again to call your attention to the 20th paragraph of your Despatch of 23rd of January last,† in which, after informing me that no prosecutions in connection with adoption and domestic servants would be instituted pending the receipt of instructions from me, you proceed as follows:—"He (the Chief Justice) further recommended "that the Chinese should be told that no prosecutions as to the past would take place, "but that, in future, in every case where buying or selling occured in connection with "adoption or domestic service the Government would undoubtedly prosecute. This "recommendation appears to me to be reasonable."

2. The Attorney General, Mr. Phillippo, was of opinion that transactions of this nature are not criminal, and as the enclosures to your Despatch dealt very fully with the condition of children who are the subjects of these transactions, I thought it right, before giving any instructions on the subject, to inquire, in my Despatch of the 20th May,‡ whether the statements in the enclosures, in the opinion of yourself and the Chief Justice, are an accurate representation of the facts connected with the adoption of children and domestic servitude in Chinese families; and I also desired to know what was the precise offence which, in the above-quoted 20th paragraph, you propose to prosecute; and whether you would prosecute it as an offence at common law, or under any and what statute or ordinance. I also requested you to obtain certain information from the Chief Justice. I have not yet received the answer to these questions, although, in your Despatch § of the 23rd of June, you replied to a question respecting brothel slavery which I asked in the same Despatch.

Shortly after this Despatch was sent to you I noticed, in the Hong Kong newspaper, that the police had received orders not to prosecute in these cases (sales of male children) until the authority of the Government has been received, and I accordingly, in my Despatch of the 30th June,‖ inquired, "What is the ordinance or other law which "confers jurisdiction upon the magistrate in such cases, and why special authority "is to be obtained for such prosecutions, instead of their being undertaken in the "ordinary course?" You now transmit some printed documents and inform me that the letters and minutes in those papers explain the questions which I have put to you in my Despatch.

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* No. 10. † No. 1. ‡ No. 3.
§ No. 7. ‖ No. 5.

I have carefully examined these papers, but I am unable to find in them the information I require. The principal point which I notice in them is at page 1, a complaint by the Chief Justice of the incapacity and inaction of the police in not bringing before the magistrates sales of children by their parents; Mr. Creagh explains that the Chief Justice having, on the 6th of October 1879, pronounced all such bargains illegal, and stated, that those who contracted them should be prosecuted for dealing in slaves, the magistrates considered that in future it would be their duty to send all such cases for trial; and he refers to your minute, dated the 18th of October, stopping all prosecutions until you learn my views; and looking to the gravity of the issues which are involved in this matter, to the fact that you differ from your own law officers, and to the marked manner in which public attention has been drawn to the subject by Sir John Smale's declaration from the bench, I must recall your attention to the 7th, 8th, and 9th paragraphs of my Despatch of the 20th of May,* and to my Despatch of the 30th of June,† and request that you will transmit to me the information which I asked for in those Despatches, and which is required in order to enable me to form a conclusion on the subject, and to consult, if necessary, the law officers of the Crown on the legal aspects of the case.

I have, &c.,

Governor Sir J. Pope Hennessy. (Signed) KIMBERLEY.

No. 12.

Governor Sir J. POPE HENNESSY, K.C.M.G., to the Right Hon. the EARL OF KIMBERLEY.

(Received December 23, 1880.)

Government House, Hong Kong,
November 13, 1880.

(Extract.)

I have the honour to acknowledge the receipt of your Lordship's Despatch of the 29th of September 1880‡ with reference to my Despatch§ of the 23rd June, on the subject of brothel slavery in Hong Kong.

Having quoted an extract from my Despatch to the effect that the existing law against slavery, if properly enforced by the police, should be sufficient to secure the real freedom of the Chinese women referred to, your Lordship expresses the opinion that I cannot have formed any distinct plan for grappling with this long-standing evil, and that the Despatches I have written have reached no further than exposing the abuses connected with the Government brothel system I found here, and especially the employment of informers. I venture, however, to point out to your Lordship that, in addition to the agency mentioned in the extract from my Despatch, I indicated, in paragraph 5, another source to which the Government would have also to look in dealing with this subject, that is the co-operation of the leading members of the Chinese community.

I take some blame to myself for not having stated this more emphatically, as, in fact, upon it depends the possibility of securing any beneficial effect in this important matter, quite as much as upon the proper action of the police.

On receipt of the Despatch now under reply, I called for a précis of the recorded views of the leading Chinese, and a statement of what the Chinese society your Lordship had sanctioned in Despatch of the 20th May 1880* had actually accomplished in this matter, and on receiving this information I shall forward it without delay, when it will, I think, be made clear to your Lordship that a beneficial effect has already been secured by the action of the leading Chinese residents.

No. 13.

Sir JOHN SMALE to COLONIAL OFFICE.

July 15, 1881.

(Extract.)

I also enclose a copy of the translation originally made by the translator to the Police Court, and corrected by the translator of the Supreme Court, of a bill of sale of a boy in 1879, of which I have the original,—a form in general use up to the time when I left, and from time to time produced in Court by prisoners as a justification of slave-holding.

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* No. 8. † No. 5. ‡ No. 9. § No. 7.

Enclosure in No. 13.

An absolute BILL OF SALE of a boy made by a native of

WHEREAS, on account of daily maintenance being difficult to be obtained, I and my partner, after mutual consultation, agree to sell my own son, aged eight years, born in the hour of day month year.

I at first offered him to my relatives, which offer, however, was not accepted.

Through the intervention of one Lo Shap Yeung acting as a go-between, I was introduced to a stranger (a Hakka) named U-wo-tong, who agreed to buy (my son), and in the presence of both parties and the go-between the sum of taels of silver in full was paid to the seller's own hand, and a document (bill of sale) was immediately handed over to the buyer. This sum the seller has received in full for his own use.

This boy has not been kidnapped or anything of the kind. Should anything be found to be wrong about him the buyer will not be responsible. The seller and the go-between will clear up difficulties.

This boy is willing to be sold, (and the purchaser) is willing to buy with both consent. The buyer is at liberty to take him home, and change his name and surname, and to rear him up with prosperity. The seller has no right to redeem him in future.

If accidents befall him hereafter each accident will be regarded as the will of Heaven, and no question will be raised about him.

To prevent any misunderstandings which might hereafter arise from a mere oral agreement, this bill of sale is made out in writing, and handed to the buyer to be retained by him as proof hereof.

In the presence of Lo-Shap Yeung, a go-between.

Kwong Shu, the 5th year, the 3rd intercalary month, of 30th day, this bill of sale of my own boy was made (*i.e.* 20th May 1879).

Translated by
Li Acheung, sworn interpreter.
4/6/79.

No. 14.

GOVERNOR SIR J. POPE HENNESSY, K.C.M.G., to the RIGHT HON. THE EARL OF KIMBERLEY.

(Received July 25, 1881.)

Government House, Hong Kong,
15th June 1881.

MY LORD,

WITH reference to my view of certain legal questions relating to the so-called slavery in Hong Kong* on which, as your Lordship points out, I differed with the late Attorney General, Mr. Phillippo, I have had some opportunities of considering them in consultation with Mr. O'Malley, the present Attorney General, and the result is that, whilst I am clearly of opinion that there is nothing illegal in the ordinary mode of adoption of Chinese children in this Colony, I still think that, in the particular case of Tsang San Fat's child, I was not wrong in instructing Mr. Phillippo to prosecute Leung A Tsit, as in that case there appeared to be some evidence that the child was about to be taken out of the Colony, against the wish of the parents, to be sold in Canton. This seemed to me to involve an offence at common law.

2. In reply to your Lordship's further questions I have the honour to state that renewed enquiries confirm me in the opinion that the description given by the Chinese community, and by Dr. Eitel in his report of the 25th of October† 1879, of the adoption of children and domestic servitude in Chinese families, is correct; and that any abuses that may occur will be exposed by the Chinese Society, with which, under your Lordship's instructions, the police are co-operating; that no further change is needed in the executive machinery now dealing with this matter; and that no alteration of the law on this subject is required.

I have, &c.,
J. POPE HENNESSY.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

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* Vide Nos. 1 and 10.

† Enclosure 11 in No. 1.

No. 15.

GOVERNOR SIR J. POPE HENNESSY, K.C.M.G., to the RIGHT HON. THE EARL OF KIMBERLEY.

(Received July 25, 1881.)

Government House, Hong Kong,
15th June 1881.

MY LORD,

IN reply to your Lordship's Despatch of 31st December* 1880, asking for particulars as to the two Contagious Diseases Ordinances of 1857 and 1867 having caused an increase of brothel slavery, I submit herewith to your Lordship the following considerations in support of the statement I made on this subject in my Despatch of 13th November† 1880, to which your Lordship refers.

2. That under the Ordinance No. 12 of 1857 the evils of brothel slavery were intensified, and assumed day after day a graver aspect, would seem to have been the opinion of the Registrar General, Mr. Cecil C. Smith, who, ten years after Mr. Labouchere gave the instructions which your Lordship quotes, wrote on 2nd November 1866 as follows:—

"There is another matter connected with the brothels, licensed and unlicensed, in "Hong Kong, which almost daily assumes a graver aspect. I refer to what is no less "than the trafficking in human flesh between the brothel keepers and the vagabonds of "the Colony. Women are bought and sold in nearly every brothel in the place. "They are induced by specious pretexts to come to Hong Kong, and then, after they "are admitted into the brothels, such a system of espionage is kept over them, and so "frightened do they get, as to prevent any application to the police."

So far for the Ordinance of 1857.

3. As regards Ordinance No. 10 of 1867, there is the testimony of another Registrar General, Mr. Lister, who stated before the Commission in 1877 that he does "not "think the new Ordinance had any real effect, or could have had any effect, upon the "sale of women." Such is indeed the case.

4. But there is yet the important question whether or not the condition of a woman once sold into virtual slavery to the keeper of a licensed brothel was in any way ameliorated by the Ordinance of 1867. As regards this point I am disposed to say that the Ordinance No. 12 of 1867, by giving larger powers to the Registrar General, and thereby indirectly to the Inspectors, with whom the practical working of the Ordinance lies, made the condition of the unfortunate women sold to the keeper of a licensed brothel worse than it was before. For, as the experienced police magistrate, Mr. May, stated in 1877 in his evidence before the Commission, "the licensed brothel keepers look upon the Inspectors as their protectors." There can be no doubt of the truth of what Mr. Pang Ui-Shang told the same Commission, that "the fact of licensing these brothels "gives the keepers a sort of official authority," and that "they boast of the protection "of the inspectors." The natural consequence of this is that the unfortunate women, who, on being conveyed into the Colony, bring with them an extraordinary dread of all foreigners, have no courage to seek their freedom; and, as inspector Lee stated before the Commission, "if they had complaints would not make them."

5. Another mode by which the Contagious Diseases Ordinance of 1867 intensified brothel slavery is to be found in the compulsory medical examination of Chinese women by foreign doctors,—a system which has never been applied to the licensed brothels generally in Hong Kong, but only to those licensed for Europeans. Nevertheless, as Governor Sir Richard MacDonnell stated, this compulsory medical examination was kept in reserve for all brothels, "as a species of penalty that may be inflicted whenever "the expediency of such a measure was decided on." But this very species of penalty is one of the means by which keepers of licensed brothels enforce submission on the part of the Chinese women. Mr. A. Lister, who had been entrusted with the working of this Ordinance, stated before the Commission that "new women would almost have preferred "going to the whipping-post," and that "the mere threat of sending them to "examination was generally sufficient to keep them in order." Thus also the keepers, by threatening to place their houses under medical inspection, gained power over those women.

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* No. 36 of [C. 3093], August 1881. † No. 12.

4. I can quite believe that the women in these houses are in great dread of their keepers, and "have no courage to seek their freedom." Unfortunately recent experience has shown that this state of things is not peculiar to Chinese brothels, but exists also in European countries; but I am not prepared to agree in the view that these unfortunate women will be benefited by the withdrawal of all control over the houses in which they are immured, although it would, no doubt, relieve the Government from a very disagreeable duty if matters were left to take their course, and it would probably be more in accordance with Chinese ideas and habits if no interference were attempted with their peculiar brothel institutions. I view with much satisfaction the steps taken by the respectable Chinese to co-operate with the Government in their efforts to deal with this evil; and with their aid, and an intelligent and careful working of such regulations as I have suggested, I should hope that a sensible check may be given to the nefarious practices of the brothel keepers.

I have, &c.

Sir J. Pope Hennessy. (Signed) KIMBERLEY.

No. 18.

GOVERNOR SIR J. POPE HENNESSY, K.C.M.G., to the RIGHT HON. THE EARL OF KIMBERLEY.

(Received September 12, 1881.)

Government House, Hong Kong,

MY LORD, 4 August 1881.

1. I HAVE the honour to submit to your Lordship the enclosed letters from Chief Justice Sir John Smale on the so-called slavery in Hong Kong.

2. Some delay has occurred in obtaining the Attorney General's views on the subject, but I hope to be able to transmit them by the next mail.

3. Since writing the despatches of 15 June 1881* I have ascertained that the acting Puisne Judge, Mr. Russell, has not seen reason to change the opinions he expressed about domestic servitude and adoption in this Colony in 1879. On these questions he concurs generally in the opinions I had recently the honour of conveying to your Lordship.

4. The accompanying Report by Dr. Eitel gives a summary of the proceedings of the Chinese Society, whose actions I provisionally sanctioned in January 1880. I venture to recommend Dr. Eitel's valuable Report to your Lordship's attention.

I have, &c.

The Right Hon. the Earl of Kimberley, &c. &c. &c. (Signed) J. POPE HENNESSY.

Enclosure 1 in No. 18.

The Colonial Secretary's Office,

SIR, 25 June 1880.

THE Governor desires me to furnish you with the enclosed copy of a Despatch† from the Earl of Kimberley with reference to the important observations made by your Honour in sentencing certain prisoners in October last.

2. His Excellency wishes the whole of the Despatch to be sent to your Honour, as it deals with a subject on every branch of which you have shown so great an interest, but your Honour, no doubt, will notice that in paragraphs 7 and 9 the Earl of Kimberley asks specifically for further information from you.

I have, &c.

To his Honour Chief Justice Sir John Smale. (Signed) F. STEWART, Acting Colonial Secretary.

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* Nos. 14, 15, and 16. † No. 3.

Enclosure 2 in No. 18.

The Chief Justice to Acting Colonial Secretary.

The Supreme Court, Hong Kong,
26 August 1880.

(Extract.)

I have the honour to have received, by directions of his Excellency the Governor, a copy of a Despatch,* dated 20th May 1880, from Lord Kimberley to his Excellency, on certain declarations by me as to "Slavery in Hong Kong."

I very much regret that until now (the vacation of the Supreme Court) various most urgently pressing matters have so constantly occupied my time that I have been unable to write to you on the subject. His Excellency the Governor is well aware of the great pressure of work causing this delay.

In paragraph 3 Lord Kimberley says he would have preferred my addressing a memorandum to the Governor in the first instance instead of my making a public statement from the Bench.

His Excellency will agree with me that I have had hitherto no encouragement to take such a step. But in all matters pertaining to the administration of the law and the social state of the Colony in reference to them, I have on principle abstained from referring to the Government; to do so for any purpose would be to reduce the administration of justice to a Department of the Executive.

His Excellency the Governor will, I am sure, remember that by letter and in frequent conversations he expressed entire satisfaction at the course I had adopted on each occasion as being the best, if not the only method, to turn public attention and discussion on to evils we both deplored, whilst it left the Government absolutely unpledged, either as to opinion or action, and free to influence the Chinese community in Hong Kong in the direction of an improved humanity.

My observations in Court arose out of cases of kidnapping; and, according to the practice of the Judges in England in their addresses to the Grand Juries, and on sentencing prisoners, I did as I thought it was my duty to do. I traced the cause of the kidnapping to the demand for domestic bond servants, as Dr. Eitel calls them, and for brothels.

In the pamphlet at pages 4 and 5 respectively, I said on the 7th October I expressly indicate these two, and these two only, as the specific classes of slavery in Hong Kong as then rapidly increasing.

I have carefully read all that I said on that occasion, and I cannot find a sentence in it which indicates any attempt by the Court to reach criminally cases of concubines (being women other than first wives). This is especially patent in my summary of propositions in the end of the first pamphlet.

At paragraph 6 his Lordship says the buying and selling of children for adoption or domestic servitude has been condemned by me as slavery.

I nowhere find I have denounced such transactions "for adoption," or that the Chinese community attribute this doctrine to me.

Under certain conditions which are stringent, as to being of the same surname, &c., "adoption" is lawful in China, but, where some of these condtions are wanting, "adoption" is punished by the Penal Code of China. (See Pamphlet, pp. 15 to 16.)

I am therefore disposed to think (though I believe I now say so for the first time) that inasmuch as the Chinese conditions cannot as a rule exist in Hong Kong, in 99 cases out of every 100 cases such adoption as exists here would, according to Chinese law, be illegal, à fortiori that it would be illegal according to English law, and that if the status of owner and owned exist between the parties, that is slavery.

I nowhere see an authoritative statement of the religious character of the adoption; the authorities I have cited are to the contrary.

I find that the Chinese Ambassadors in England assert that the adoption has a religious character. But on what authority?

All that I contended for in what I then said beyond punishing kidnappers was to bring within the cognizance of the law those who bought from such kidnappers—the receivers of such stolen "chattels,—" leaving such buyers to set up and prove a justification if they could.

His Lordship the Secretary of State in paragraph 4 states that the law as it stands ought to be sufficient to meet all cases of kidnapping. I said at p. 17 that the law "as it exists" is strong enough, and that its arm is long enough, to reach all these illegal acts. I went further and directed the Attorney General to prosecute a man said to have been a purchaser of a kidnapped boy, whom (it was said in evidence) that purchaser

* No. 3.

boldly asserted his right to hold as his servant under a bill of sale which he produced from the kidnapper. It was important, in the state of divided opinion, that when a case that would clearly raise the question occurred, it should be the subject of legal decision.

I have also read carefully all that I said on the 27th of October 1879. It is equally confined in its judgment to kidnapping and to punishing a "broker of mankind,"—a receiver of stolen children to sell them on commission.

On that occasion I briefly, but in respectful terms, referred to the petition of the Chinese community. I shortly alluded to the statement therein mentioned, that domestic slavery was a Chinese custom; and I showed that the Chinese gentry in the same way called infanticide a Chinese custom, and thus that the two stood in the same category. I said that I desired no sudden or violent intervention.

I concluded at page 8 with a short exposition of the legal remedies for these public wrongs as I thought them.

On the 31st March 1880, prisoners in four cases of kidnapping,—one most harrowing,—were sentenced. What I then said is reported in a pamphlet from the "Daily Press."

I there lamented, and I am sure every right-minded man will concur with me, that it was the fact that the very poor were punished and the rich escaped. In that case it clearly appeared that one, Leong Ming Aseng, apparently a respectable tradesman, at all events a man of means, had given $60 for a young girl aged 13 years, to one of the kidnappers, and he took her away beyond the reach of her distracted mother, under circumstances from which, it would seem, he must have known that the child had been kidnapped. But although the facts were known at the Police Court, and this man remained exceeding 10 days afterwards in the Colony, no charge was ever made against him. After passing sentences at this time, I made some observations on the "patria potestas" theory. Dr. Eitel having painted this condition in China in what I thought too favourable colours, I quoted pp. 8 to 11 from Doolittle's "Social Life in China" unquestioned testimony as to what "patria potestas" was in China before the controversy now raised, and from Mr. Parker, Her Britannic Majesty's learned Consul at Canton, as to its present state in China. After these quotations I simply asked, Can greater tyranny, more unchecked caprice, be described or even conceived as inexcusable over wife, concubine, child, or purchased or inherited slave?—the quotations I made being up to this time undisputed. These questions remain unanswered. I have my own individual opinion, but I did not answer one of these questions. These short extracts were forced on me by statements made publicly, and as counterparts to the favourable picture of the patria potestas as drawn by Dr. Eitel. This is the only passage in what I said on all three occasions, as to which it can possibly be suggested that I went beyond the absolutely necessary limits of observation in order to support the degree of punishment I awarded; but what I said was necessary to introduce the expression of my conviction at p. 12 that none of the elements of the system of patria potestas exist in Hong Kong, including of course adoption.

It is to this conviction that I point as the moral ground for enforcing English law against kidnapping and buying and selling human beings.

The gravamen of all my complaints is, that the pauper kidnappers and sellers are punished, whilst the rich buyers go free.

At page 13 I recognize the difficulties of the Government, and pay due tribute to the respectable Chinese community, who, I am over and over again assured, entertain very kindly and trusting confidence in me, whilst they differ from what I have said.

I have not gone beyond what I have above stated, except to say as a general proposition that I know of no case of domestic bondage for which, in my opinion, there is not in an English Court of Justice a penal remedy. What the facts in each case may be must form the evidence whether the servitude be bondage or not; and as the facts differ, so will the decision be different.

No case can come on for trial in this Court except upon an information by the Attorney General. I have called on the Attorney General of the day to prosecute a man against whom there was evidence that the boy he was keeping as a servant had been bought by him direct from a kidnapper. The then Attorney General exercised his discretion, and did not prosecute. I am absolved, but the responsibility is with the Attorney General.

I am not conscious that I ever expressed a suggestion that a man should be prosecuted for having paid a price for his concubine who lives with him, or for his having bonâ fide, according to and within the custom in China, "adopted" a child.

These are, in my estimation, relations which must according to English law be held to be illegal, and which Judges are bound to state to be illegal, but I never said that these relations when bonâ fide should be interfered with.

I said on this last occasion, 31st March 1880, at page 13, "I know that the Governor "has done much in this direction (*i.e.* in spreading respect for high-toned civilization, "England's mission), but difficulties, national, social, official, and financial, beset him in "reference to the special questions I have raised."

There are no difficulties in the way of carrying out the punishment of kidnapping, and sellers and buyers of children, or of keeping children by the purchasers, or in selling and buying women for brothels, or in dealing with cases of brutal bondage.

Although former legal advisers of the Crown have declined to bring some cases of this class before the Court the Governor has always desired to do so, and such cases are now brought before the Court. As a rule the present Attorney General has at every monthly Criminal Sessions charged cases of kidnapping, and recently I know of no case in which a case could be made out against the buyer from the kidnappers. It is, however, quite clear that there must be buyers of children where so many utterly destitute persons kidnap children as they do in Hong Kong, and they the buyers escape in fact.

At paragraph 9 his Lordship the Secretary of State requests the Governor to ask me to specify the Acts of Parliament which I consider have not been enforced in Hong Kong. I am not aware that on any of the three occasions on which I have spoken on the subject I have said anything to give rise to the question. I have above referred to all the passages in which I have said anything on the subject.

The Acts of Parliament prior to 1843 relating to the subject are collected in "Russell on Crimes;" and I have, on the three occasions above referred to, cited all the Acts and Ordinances which I thought apply.

I have throughout all proceedings studiously confined myself to the legal view of the subject, not attempting to interfere with the policy or administrative dealing with it, but I may be forgiven if I here add that I think the evils complained of might be lessened,—

1. By a better registration of the inmates of brothels, and by frequently bringing them before persons to whom they might freely speak as to their position and wishes, and by such authoritative interference with the brothel keepers as should keep them well in fear of exercising acts of tyranny.

2. By a stringently enforced register of all inmates of Chinese dwelling-houses, &c., (at least of all servants,) with full inquiry into the conditions of servitude, and an authoritative restoration of unwilling servants to freedom from servitude. This would apply to the 10,000 (20,000 according to Dr. Eitel) bond servants in Hong Kong.

I regret if my action and language in reference to these matters have not been satisfactory to his Lordship the Secretary of State. I have spoken from criminal facts and circumstances deposed to in Court: the Chinese inhabitants and Dr. Eitel have spoken from the favourable surroundings of respectable domestic life in China. The conflicting views thus presented are but a reproduction of conflicting testimony in reference to Negro slavery in the West Indies, and more lately in the United States. Very benevolent persons, some my own friends, looking at facts from the respectable stand-point, thought that such slavery was based on human nature, and conduced to the spread of Christianity. But the contrary view prevailed. I am quite satisfied that the right view on this question will ultimately prevail.

As a man I have very decided views on these subjects, but as a judge I feel it is not for me further to debate them. I expressly retired from doing so on the 27th October 1879, page 7, although I thought it necessary in March last to comment on what I thought to be an erroneous view of the patria potestas.

Enclosure 3 in No. 18.

The Acting Colonial Secretary to the Chief Justice.

Colonial Secretary's Office, Hong Kong,
28th August 1881.

Sir,

Your Honour's letter of the 26th of August with reference to the Earl of Kimberley's Despatch of 20th May 1880, (a copy of which was transmitted to your Honour in my letter of the 25th of June,) has been laid before the Governor, who will forward a copy of it to the Secretary of State.

I have, &c.
(Signed) Frederick Stewart,
Acting Colonial Secretary.

The Hon. Sir John Smale,
Chief Justice,
&c. &c. &c.

Enclosure 4 in No. 18.

Chief Justice to Acting Colonial Secretary.

The Supreme Court, Hong Kong,
(Extract.) 24th November 1880.

His Excellency the Governor has had the kindness to suggest through you to me that in my letter to you, dated the 26th of August last, being a letter written in consequence of the Despatch, dated the 20th of May 1880,* from Lord Kimberley to his Excellency, I have not been sufficiently explicit in answering the enquiry contained in the 7th paragraph of that Despatch.

I thought that I had in the 4th paragraph, and by the reference therein to the Pamphlet,† pp. 15 and 16, annexed thereto, fully expressed my views; but I will now proceed more explicitly to state them. His Lordship says, paragraph 7, "I wish to be informed "whether these statements (*i.e.* in the 6th paragraph) are admitted by the Chief Justice "as an accurate representation of the facts connected with the adoption of children and "domestic servitude in Chinese families, and for what period and to what extent the persons "purchased for these purposes cease to be free agents." My remarks immediately following refer to the statements in paragraph 6 above mentioned.

I do not admit the statements of Dr. Eitel. They do not apply to Hong Kong, but they may and probably do apply to certain respectable classes in China Proper, where China family life proper exists. What I assert is that family life does not, in the proper Chinese sense, exist in Hong Kong, and that although, under certain very restricted conditions, the buying and selling, and adopting and taking as concubines, boys and girls in China Proper, is permitted as exceptions to the penalties inflicted by Chinese law in China Proper, these conditions do not exist in Hong Kong; and that the conditions necessary to these exceptions in their favour in the Chinese Criminal Code do not exist in Hong Kong, and that the penalties in that Code would apply, if in China, to all such transactions as I have denounced in Hong Kong, of that I have no doubt.

Dr. Eitel's vindication is of a system as recognised in an express exception to the Penal Code in China Proper, which may, for aught I know, work well in China. what I have said is that the practices in Hong Kong do not come within the cases which are only the exception to the penal enactments in the Chinese Code against all such bondage in China.

I have never said, as the 6th paragraph attributed to me, as a general proposition, that all buying and selling of children for adoption or domestic service is contrary to Chinese law. What I have said is that all such buying and selling of children as has come within my cognizance in Hong Kong is contrary to Chinese law; but I do think that buying and selling, even for adoption and domestic servitude under the best circumstances, constitutes slavery;—legal according to Chinese law, but illegal according to British law. Reference is made to Chinese gentlemen: I believe that not one of them has his "house" in Hong Kong: the wife (small-footed) is kept at the family house in China. Each of them has his harem only in Hong Kong. There may be an exception to this rule, but I have never heard of any such exception. (I knew of one only of a Chinese gentleman, who, for certain reasons, was afraid to return to China.)

As to those Chinese gentlemen who (I refer to paragraph 6) in November 1878 petitioned to be formed into an association for the suppression of kidnapping and of the purchase of females for the purposes of prostitution I think they have not shown their bonâ fides; for not a step has, so far as I know, been taken by them to form such an association, which required no aid from the Government.

They refer to "these institutions" (of adopting sons, &c.), which do not as a rule exist in Hong Kong.

I have not known a single case of adoption by a Chinaman in Hong Kong. They may exist in China Proper, and possibly in Hong Kong, but they are not very prevalent there (in China). They are not in China Proper a sacred religious obligation, except in very rare cases indeed, in which the conditions of clanship and other stringent conditions are precisely complied with; and they have as much to do with the necessities of the poor, and no more than would be the case in England or Ireland in the time of a famine.

These Chinese gentlemen say that the children are well cared for. If girls eligible for marriage or concubinage, they are sold for that, and form a profitable investment to a Chinese gentleman. If not so eligible, they are sold for any, even the worst purpose, —brothels according to my experience in the Criminal Courts of Hong Kong. If the former, it may be that they do well; but if the latter, no slavery is worse. (See as to this, Mr. Francis' memorandum herewith.) This as to females. And as to males the purchaser

* No. 3. † Enclosure 1 in No. 1.

arrangement they work out their freedom; and as to girls, till the Chinese owner repays himself with a profit by their sale as wife, concubine, prostitute, or bond servant.

(*d.*) The legal effect of extra-judicial declarations. I at once admit that I have always thought that extra-judicial declarations are not legally binding as expositions of law. They stand on the same footing as the dicta of Judges in the course of long argument leading up to a judgment, which alone is legally binding. This distinction has been, if I rightly remember, (as I read more than 30 years ago,) emphatically drawn by Lord St. Leonards in his "Law of Property administered by the House of Lords." The effect of such dicta is simply to be tested by their being or not being in accord with truth and right, and law and good sense.

The Judges in England have very frequently, almost as a habit, delivered extra-judicial declarations. Lord Chief Justice Cockburn (apropos of nothing before the court) made a very long and learned and most effective exposition of the law as to Regina v. Eyre (see "Times" of April 11th, 1867), and on every circuit Judges made extra-judicial declarations in addresses to grand juries, and on sentencing prisoners, expounding new laws, denouncing agrarian and trades union outrages and riots, and garotting, and expressing views on special tides of crime and vice, as drunkenness, and on other local circumstances generally. Eminent Recorders have done the same. I instance the late Mathew Davenport Hill, who, in his persistently recurring charges, "ictibus crebris," his motto to his book to the grand juries of Birmingham, collected during the tenure of office, and published in 1857, a work found in the library of every social reformer, of which he boasted that they "provoked controversies." These ended in the legislation of a system of reformatories, of which no one ever said that his utterances were in excess of duty or propriety, and of which all parties now approve.

It has, therefore, seemed to me to be the right and bounden duty on fitting occasions for Judges in Colonies, where the law is less known than in England, to make extra-judicial declarations when special circumstances call for them. I thought the state of kidnapping, prostitution, and domestic servitude (or, as Dr. Eitel prefers it, bondage) required the light of public opinion, and the education of public opinion, to be brought to bear on them. I therefore made extra-judicial declarations thereon, of which I say with confidence that his Excellency the Governor has not in a single instance expressed disapproval.

Although I have acted on a decided conviction that the course I have adopted was my duty, I have on the other hand always fully appreciated the special difficulties of a Governor here, who naturally desires to lead rather than to drive the Chinese community in reference to these questions.

(*e.*) And, finally, as to the power of a Judge to direct prosecutions. The state of my opinion on this point is clearly expressed at paras. 17 and 18 of the pamphlet* annexed. I thought it to be my duty (and in a sense within my power) to direct a prosecution as the only constitutional way open to me, in order to prevent the escape from trial of a supposed culprit, to set in motion those whose duty it is to prosecute, when upon the trial of a case criminality appeared primâ facie to rest on a party not under prosecution. I stopped there. It will be seen that I said that thereupon the responsibility was shifted from the Judge, and rested on the public prosecutor.

That responsibility extends to considering and investigating the case, and thereupon proceeding or not with it, as the evidence may call for, or as under all circumstances may be expedient, just as in any other case, and no further.

In this, I thought, and still think, that I was acting according to precedent. I know of no express authority in the books for such direction; the larger portion of judicial action is without such proceedings, but I feel sure that I have seen cases in which Judges in England have directed such prosecutions. They have been, according to my memory, in the habit of giving directions to the police to prosecute, and to other officers. Their right to do so is because they are, according to Lord Coke and to Chief Baron Comyns, the sovereign justices of the peace. (The Judges have by ordinance equal authority within this Colony.) I incline to think that these directions in England or in this Colony are of no legal obligation, creating misdemeanours for non-obedience, but they create serious responsibilities officially affecting the officer to whom they are given in case of any miscarriage if the direction is not followed. The practice seems to me to be useful when reserved for special occasions. Believing that there has been such a practice, I know of no principle or precedent to the contrary So far as I remember, the only occasion in which I have directed a prosecution was against a Chinawoman who bought a kidnapped child under circumstances which

* Enclosure 1 in No. 1.

he system of prostitution which prevails in this Colony, and the system of breeding up young girls from their infancy to supply the brothels of Hong Kong, Singapore, and San Francisco, is declared to be slavery, and is treated and punished as such in Hong Kong, no stop will ever be put to the kidnapping of women and the buying and selling of female children in Hong Kong. This buying and selling and kidnapping is only an effect of which the existing system of Chinese prostitution is the cause. Get rid of that, and there is an end of kidnapping.

13. The Chinese custom of adoption, whether of boys for the purpose of continuing the family and worship of ancestors, or of girls for the ordinary purposes of domestic service, is not the foundation of all this buying and selling of women and girls; it is only the pretext and excuse.

14. In the first place, the buying and selling of boys is rare, as compared with the buying and selling of girls. There are very few families, in the proper sense of the word, living in Hong Kong. Almost all the better class of Chinese here have their wives and families in China. If male children are wanted, the transaction takes place at the place of residence of the father of the family, and not in Hong Kong. It can be but very seldom a son has to be purchased, as, if the first wife does not present her husband with a male heir, he takes a second or a third wife, and gets a son in that way. Still children (males) are bought and sold in Hong Kong for adoption, and in their respect strict Chinese custom may possibly prevail. They may become by such sale sons, not slaves.

In the second place, as to the girls. There are so few *bonâ fide* Chinese families of any means living in Hong Kong that the purchase and sale of female children for the purpose pure and simple of domestic service or servitude can be but very small. Girls are not bought and sold in Hong Kong for domestic servitude under the Chinese custom. They are bought and sold for the purpose of prostitution here and elsewhere, and instead of being apprentices to the domesticities, and of being brought up to be good wives and mothers, they are bought and sold,—brought up and trained for a life of prostitution, a life of the most abject and degrading slavery.

By the last census there were in Hong Kong 24,387 women (Chinese) to 81,025 Chinese men. What that means is easily told. Of these 24,000, the late Mr. May was of opinion that 20,000 or five-sixths "come under the denomination of prostitutes to "whom money being offered they would consent to sexual intercourse."

A Chinese doctor of large experience fixed the number of quasi respectable women at a fourth of the whole number, or say 6,000, leaving 18,000 prostitutes. These opinions were taken and adopted by the C.D.O. Commission 1877-79. See their Report, page 31.

Who and what are these prostitutes who form by far the greater bulk of the Chinese female population of Hong Kong. The Report of the C.D.O. Commission, answers the question:—"The great majority of them are owned by professional brothel keepers or "traders in women in Canton or Macao, have been brought up for the profession, and "trained in various accomplishments suited to brothel life, and have actually breathed "the atmosphere of brothels for years before attaining maturity. They frequently know "neither father nor mother, except what they call a 'pocket mother,'—that is, the woman "who bought them from others."

They feel, of course, that they are the bought property of their pocket mother or keeper.

They have the chance of being taken as second, third, or fourth wife of some wealthy gentleman, "or they may endeavour to raise money by singing, music, and prostitution "combined, and not only to purchase their freedom, but *to set up for themselves, buying, "rearing, and selling girls to act as servants, concubines, or prostitutes, or they may "finally come to keep* brothels for wealthy capitalists or speculators." . . . . .

"There is further a certain proportion of Chinese prostitutes in Hong Kong who have "by the hands of their parents or husbands been mortgaged or sold into temporary "service as prostitutes."

"There is, however, one class of women in Hong Kong who can scarcely be called "prostitutes, and who have no parallel in China outside the Treaty Ports or in Europe. "They are generally called 'protected women.' She resides in a house rented by "her protector, who lives generally in another part of the town; she receives a fixed "salary, and sublets every available room to sly prostitutes, or to women keeping a sly "brothel."

"The principal points of difference between the various classes of Chinese prostitutes "of Hong Kong and the prostitutes of Europe amount therefore to this: that Chinese "prostitution is essentially a bargain for money, and based on a national system of "*female slavery*."

"There are natural causes at work (among the Chinese) which almost necessitate "prostitution, ... excessive over-population . . . . . national "system of polygamy, ... legalized concubinage . . . . . "*the universal practice of buying and selling females, combined with the system of "domestic slavery.*"

"This intermixture of female slavery with prostitution has been noticed in Hong Kong at "the very time when the Legislature first attempted to deal with Chinese prostitution."

All these extracts are from pages 3, 4, 5, and 6 of the Report of the C.D.O. Commission.

Again at page 45 of the Report may be read :—

"There can be no doubt that, with the exception of a comparatively few who have "been driven by adversity to adopt a life of prostitution when arrived at a mature age, "the bulk of girls are, in entering brothels, merely fulfilling the career for which they "have been brought up."

It seems to us (the Commissioners), having regard to the evidence given us by the brothel-keepers whom we examined, that everything that strikes foreigners as most objectionable flourishes practically unchecked within the regulated institutions.

"Young girls, virgins of 13 or 14 years of age, are brought from Canton or elsewhere "and deflowered according to bargain, and as a regular matter of business, for large sums "of money, which go to their owners, frequently it would appear their own parents." (Evidence of Ho A-yee, answers 1203 to 1209, 1227 to 1230, pages 30 and 31.) "The "regular earnings of the girls go to the same quarters, and the unfortunate creatures "obviously form subjects of speculation to regular traders in this kind of business who "reside beyond our jurisdiction."

At pages 29, 30, and 31 of the evidence taken by the C.D.O. Commission is to be found the evidence of Ho Tai Ngan (answers 1160 to 1198), Ho A-yee (answers 1199 to 1263), Leong A-you (answers 1264 to 1285), all keepers of first-class Chinese brothels in Hong Kong, having 37, 26, and 20 inmates respectively.

What is their story? It requires a capital of $2,000 to start a first-class brothel. Its staff numbers over 100 people. Its monthly expenses are about $700. The girls' ages vary from 16 to 24. They are owned in Macao and Canton. They are bought as infants. They are brought up in Canton in family houses; nurses are employed to bring them up. They come to Hong Kong at 13 or 14, and are deflowered for a special price, which goes to their owners. Seven girls earn about $100 a month. The owner gets the whole of that, and even gets presents given to the girls, who are allowed three or four dollars a month pocket money. The girls can buy their discharge, but Ho A-yee never knew an instance of that being done.

When some of the girls are sent away on account of age, new ones are got from Canton. There are about 8 or 10 changes a year (among 20 girls); they remove into other Chinese brothels, or go back to Canton. No woman is kept in a first-class Chinese brothel after 24 years of age. Then if they are not married, the parents (pocket mothers) take them away. What becomes of them is not known. They become, perhaps, hairdressers, servants or prostitutes in other brothels.

If these girls are not slaves in every sense of the word, there is no such thing as slavery in existence. If this buying and selling for the purpose of training female children up for this life is not slave-dealing, then never was such a thing as slave-dealing in this world.

As Dr. Eitel points out in his Report of the 25th October 1879, almost every protected woman keeps a nursery of purchased children, or *a few servant girls*, who are being reared with a view to their eventual disposal, *according to their personal qualifications*, either among foreigners here as kept women, or among Chinese residents as their concubines, or to be sold for export to Singapore, San Francisco, or Australia.

There are 18,000 to 20,000 prostitutes in Hong Kong, to 4,000 or 5,000 respectable Chinese women. The bulk of these prostitutes, those from 16 to 25, are slaves owned by persons residing here, in Macao, Canton, or elsewhere. The rest have been prostitutes, and are brothel-keepers, or breeders and trainers for the brothels.

Nine years is the outside limit of a prostitute life, as a money-making machine, barring all accidents. Five years is, it may be fairly assumed, the average. Once in five years the stock has to be renewed

It is for this purpose, and not for the legitimate or quasi legitimate purposes of Chinese adoption and Chinese family life, that children and women are kidnapped and bought and sold.

What is said by the Chinese themselves in their Memorial to the Governor of the 9th November 1878, asking leave to form an association to suppress kidnapping?

They speak of "go-betweens, and old women who have houses for the detention of "kidnapped people, and, as it may be, inveigle virtuous women or girls to come to Hong "Kong at first, deceiving them by the promise of finding them employment and then "proceeding to compel them by force to become prostitutes, or export them to a foreign "port, or distribute them by sale over the different ports of China,—boys being sold to "become adopted children, girls being sold to be trained for prostitution."

The same gentlemen say in another place, "Hong Kong is the emporium and thorough-"fare for all the neighbouring ports. Therefore those kidnappers frequent Hong Kong "much, it being a place where it is easy to buy and sell."

There is no necessity to make further citations.

The published papers on the subject, (1) the Report of and Evidence taken by the C.D.O. Commission, and (2) the Papers published in Government Notification No. 28, of the 4th February 1880, show in the clearest possible manner,—

1. That there is relatively little or no family life in Hong Kong amongst the Chinese, and therefore no legitimate demand for either adopted male children or for female domestic servitude.

2. That from three-fourths to five-sixths of the Chinese women in Hong Kong are prostitutes or living directly by prostitution.

3. That the bulk of these prostitutes are slaves, bought and trained up at considerable expense for the purpose, owned here, at Canton or Macao, prostituted for the sole profit of their owners, redeemable only by purchase, and rarely able to purchase their own freedom. Ho Tai Ngan says in her evidence that she never knew such a case.

4. That every Chinese woman who is not in the actual practice of prostitution engages, if she can get the means, in buying and rearing girls to the work.

5. That Singapore, Australia, and San Francisco are supplied from Hong Kong with prostitutes, kept women, and concubines.

6. That the profits of this trade are so great, and the demand so strong, that Chinese men and women are daily tempted into a career of open crime as kidnappers of women and children to supply the demand not sufficiently supplied by the breeders.

7. That there is a veritable slave class and a genuine slave trade carried on in Hong Kong, and that on a very large scale indeed.

8. That the prosecutions under the Local Ordinances only touch the fringe of this garment of crime, only the abuses that have grown out of this tolerated slavery and slave trade.

9. That until this slave-holding and slave-dealing is entirely suppressed the grosser abuses arising out of it and incidental to it (kidnapping of women and children) can never be put an end to.

(Signed) J. J. Francis,
Barrister-at-Law.

1st October 1880.

Enclosure 6 in No. 18.

Chief Justice to Acting Colonial Secretary.

The Supreme Court, Hong Kong,
April 2nd, 1881.

Sir,

I have the honour to refer to my letters to you; viz. to, first, a letter dated August 26, 1880, being my reply to your letter, with remarks on the official Despatch from the Right Honourable Lord Kimberley, dated May 20, 1880, to his Excellency the Governor, respecting kidnapping and domestic slavery; to secondly, a supplementary letter, dated November 24th, 1880, being my letter to you containing further observations on kidnapping for brothel slavery, adoption and domestic slavery, and on my extra-judicial declarations thereon; with its enclosure of a Memorandum, dated October 1st, 1880, by Mr. J. J. Francis, barrister-at-law, on slavery in Hong Kong, and on the state of the law as applicable to such slavery.

I had hoped that these letters would have been forwarded last year, in the belief that they might have induced a less unfavourable view by Lord Kimberley of my judicial action as to these matters, and with the more important object of presenting what appears to me to be the great gravity of the evils I have denounced as they affect the moral status of the Colony, in order that some remedy may be applied to them, either under the

law as it now stands, or if, contrary to my opinion, the present law is held to be ineffectual then under some law to be enacted to meet the mischief.

I am informed that His Excellency the Governor has been unable to obtain the opinion of the Attorney General on the points raised. I can quite understand, therefore, that it might be improper for His Excellency the Governor to forward my letters without that legal advice thereon by which he is constitutionally to be guided.

I the less regret that my letters have not been forwarded, because time strengthens the case for stringency in suppressing the evils which I have denounced.

Enclosed I forward an extract from the Criminal Calendars of convictions for kidnapping, eight in number, and for almost unprecedented brutal assaults on bought children, two in number, during the three first months of this year.

I also forward reports from the newspapers of my observations on passing sentences on some of the prisoners convicted.

The cases of kidnapping present very little of novelty, except perhaps a slight increase in numbers convicted, owing to more prompt denunciations by China men and women, —a very hopeful sign. But, considering the special waste of life in brothel life, and the general want of new importations to keep up the bondage class of 20,000 in this Colony, the cases of kidnapping detected cannot be one half per cent. of the children and women kidnapped.

The two cases of brutal treatment of young girls by purchasers, their pocket mothers, one little girl having had her leg broken by beating her, and the other having been shockingly and indecently burnt,—both probably weakened for life,—illustrate the cruel passions which ownership in human beings engenders here, as it ever has done elsewhere. In a case now before the magistrate the evidence tends to show that a girl 13 years of age was bought by a brothel-keeper for $200, and forced, by beating and illtreatment, into that course of life in a brothel licensed by law. Subject to such surveillance as these houses are by law, it seems to me that such slavery is easy of suppression.

In a few remarks at the end of passing sentences on the 24th March I have expressed my views of the present state of the question.

I have now, I presume, concluded my judicial labours in reference to these subjects.

It is due to His Excellency the Governor that I should take this opportunity to repeat what I have very frequently said, that he has honoured me with sympathy in most of my views. But I can well understand that the questions involve many considerations of expediency which naturally weigh with him in opposition to my judicial views, and that political and legal considerations and opinions naturally influence him; but I feel grateful to him for the friendly and generous way in which he has treated this matter, and for his general courtesy, as well when we have differed as on the more frequent occasions when it has been my pleasing satisfaction to concur with him, ever since his arrival in the Colony.

I have, &c.

The Hon. F. Stewart, LL.D.
&c. &c. &c.

(Signed) John Smale,
Chief Justice.

Enclosure 7 in No. 18.

List of Cases of Kidnapping, eight in number, and of Brutal Assaults on Bought Children, two in number, Convicted at the Criminal Sessions for Months of January, February, and March 1881. Extracted from the Criminal Calendars.

No. in Calendar.	Name of Prisoner.	Crime.	Date of Trial.	Verdict.	Sentence.
			January.		
2	Wong A-Ping	Unlawfully by force leading away a child under the age of 14 years, with intent to deprive the father of the child of its possession.	20th January	Guilty	1st February 1881. Three years' penal servitude.
3	1. Leung A-Kit. 2. Wong A-Cheung.	Unlawfully by force leading away a child under the age of 14 years, with intent to deprive the father of the child of its possession.	20th January	Both prisoners guilty unanimously.	1st February 1881. First prisoner three years' penal servitude. Second prisoner one year's imprisonment with hard labour.
4	1. Lai a Chaw. 2. Leong A-Mi.	1. Unlawfully by force leading away a child under the age of 14 years, with intent to deprive the person having the lawful custody of the child of its possession. 2. Unlawfully by force detaining the said child with the same intent.	8th February	First prisoner guilty on first count, not guilty on second count, unanimously. Second prisoner guilty on second count, not guilty on first count.	8th February 1881. First prisoner three years' penal servitude. Second prisoner one year's imprisonment with hard labour.

No. in Calendar.	Name of Prisoner.	Crime.	Date of Trial.	Verdict.	Sentence.
			FEBRUARY.		
	Lam A-Chun - -	Unlawfully and by fraud enticing away from this Colony a woman named Li Shau Ho for the purposes of prostitution.	18th February	Guilty - -	9th March 1881. Two years' imprisonment with hard labour.
5	Yau A-Fung. Ng A-Fong. In A-Cheung. Un A-Po.	Unlawfully and by force detaining and taking away a child named Kwok A-I under the age of 14 years, with intent to deprive the father of its possession.	19th February	First and fourth prisoners guilty; second and third prisoners not guilty.	7th March 1881. First and fourth prisoners two years' imprisonment with hard labour, and to be kept in solitary confinement for two months in each year, not exceeding one month at any one time.
			MARCH.		
8	Mak A-Pang. Tang A-Lon.	Assault on bought girl, occasioning actual bodily harm.	2nd March -	Both prisoners guilty -	9th March 1881. Three years' penal servitude each.
	Chau Sau - -	Unlawfully and by fraud enticing into this Colony a boy named Leung A-Wing for the purpose of selling him.	18th March -	Not guilty.	
2	1. Ching A-Chan. 2. Chau A-Num. 3. Au A-Pat. 4. Chau A-Cheung. 5. Li A-Yeung. 6. Lau A-Ng.	Unlawfully and by force detaining within this Colony one Chau A-Fat for the purpose of selling him.	19th March -	Second, fourth, and fifth prisoners guilty; first, third, and sixth not guilty.	24th March 1881. Two years' imprisonment with hard labour each.
3	Lam A-Yau - -	Assault on a bought girl, occasioning actual bodily harm.	18th March -	Guilty - - -	24th March 1881. Three years' penal servitude.
	1. Chau A-Lam. 2. Lai A Yik.	Unlawfully and by fraud enticing into this Colony a boy named Chau A-Yun for the purpose of selling him.	19th March -	Both prisoners guilty on both counts.	24th March 1881. Three years, penal servitude each.

Enclosure 8 in No. 18.

Taken from the "Daily Press" of 10th March 1881.

Supreme Court, 9th March.

Before His Honour the Chief Justice Sir JOHN SMALE.

SLAVERY.

His Lordship now passed sentence on Lam Achun as follows:—

You, Lam Achun, have been found guilty by the Jury of having enticed away a woman named Li Shau Ho from the Colony, for the purpose of prostitution, on the 15th of November 1880. The facts of this case are that the prisoner, a friend of the deceased husband of Li Shau Ho, a widow, who was living in Queen's Road West, induced her, she being very poor, to agree to go to Kowloon City as a cook at $2 a month. He took her to a boat; and took her, not to Kowloon, but to Sha Ching, in the Sun On district. He detained her for eight days, and then forcibly took her to a brothel there, sold her for $24, and left here there in the brothel. She was compelled to act as a prostitute, and in consequence she sent a letter to her uncle, Su Tsing Tai, who was living in Hong Kong. He was a poor man, and it took him some time to save the money; but he raised it and went to the brothel, paid $24, and redeemed his niece on the 7th of January, and brought her to Hong Kong, and the prisoner was pointed out to the police and arrested. Lam Achun, of your guilt there can be no doubt. You consigned this poor woman to a course of life abhorrent to her. Your crime is a very bad, but neither an uncommon nor remarkable crime in China. I must punish it severely. The sentence of this Court on you is that you be imprisoned and kept to hard labour for the term of two years.

Mak A-pang (a female) and Tang Alon were then brought up for sentence.

His Lordship said,—Upon an information charging you, Mak A-pang and Tang Alon, with having made an assault on Mak Tai Yau, a young girl of the age of 13 years, and with having beat, wounded, and illtreated her, thereby occasioning to her actual bodily harm, at Victoria, on two occasions, viz., on the 3rd of November and on the 3rd of December last, the Jury after an anxious and careful hearing have come to the only conclusion possible,—that each of you is guilty. The repeated deliberate statements which you, Mak Apang, made in your defence, that you have lived with the second prisoner as his paramour, and that you were not his wife, relieved the Court from all question of marital coercion, which under some circumstances might have arisen in your

" leg yet." The child was taken back to the hospital, where she may be seen by persons who feel an interest in the case, in a state apparently to be little removed from death. The Jury without hesitation found both prisoners guilty of the crimes charged. It is now my duty to sentence both prisoners. You, Mak A-pang, are more guilty than your fellow prisoner,—your paramour, as you call him. You bought the child, and you seem to have exercised most of the cruelties on her. The main excuse for you is that you are what you are from education in evil, probably a domestic bondswoman yourself. You say that you were the inmate of a brothel. Cruelty begets cruelty, and the life you have been forced into has educated you to cruelty till one feels pity even for such a criminal as you are, whilst retaining to the full indignation at the crime. You, it may be, are in your crime as much the victim of Chinese customs as the poor child whose young life you have blasted; but justice must be vindicated; and in order to mark how such atrocities as you have been guilty of are abhorred, it becomes my duty, and I sentence you to penal servitude for three years: the law gives me no power on this information to inflict a heavier punishment. As for you, Tang Alon, you appear to have been less active in the cruel treatment of this young child, but you certainly took a very active part in the atrocity of tying up and flogging this poor young girl, and in breaking her leg, and in other assaults on her; but as a man not educated to crime as your fellow prisoner has been, I think you liable to a punishment as severe as that imposed on her. The sentence of the Court on you is that you be kept to penal servitude for three years. I cannot part with this case without asking whether it does not justify all that I have said from this Bench against kidnapping, and against that domestic bondage which I call domestic slavery, of which, in low natures and in bad hearts, the crimes of which these prisoners have been convicted are the natural fruits! Everyone must feel that it would have been far better for this poor girl if she had died in the midst of the days when her cheeks were not hollow as they are now, when she could play and did play in happy childhood, than that, in emaciated and in ruined health, she should, even when rescued, drag out a blighted life. I know of no case in the actual annals of slavery, nothing in the fictions of the great anti-slavery novelist, which tends more to excite sympathy and pain. But is this a solitary case. ? I fear that though it may be pre-eminently atrocious, hundreds, nay thousands, of cases of a like kind have existed in this Colony under the British flag. The propriety of what I have said on this subject from this Bench has been questioned. I, however, hold it to be my duty to law,—to humanity, the highest law,—in the only effectual way in my power to lay bare before the public how much yet remains to be done before it can be said that in this Colony " slavery has ceased to be in use." I am more inclined to blame myself because so many years have passed without the system presenting itself to my notice, rather than to take blame for any excess of zeal in denouncing the system since its enormities have forced themselves on my attention.

Enclosure 9 in No. 18.

Slavery.

Report by Dr. Eitel.

In reporting on the letters (and enclosures) of Sir John Smale, dated respectively 26th August 1880, 24th November 1880, and 2nd April 1881, I leave all questions of a legal nature, referred to in these papers, aside, as beyond my ken, and confine myself to indicate, as briefly as I can, how far my knowledge and experience of Chinese social life enables me to agree with, or compels me to differ from, the views expressed or sanctioned by Sir John Smale in the papers before me.

2. As far as I understand the position Sir John Smale takes (independently and through Mr. Francis' report enclosed in these papers), it virtually amounts to the following propositions, in which I concur:—

a. That there is buying and selling of human beings going on in Hong Kong and elsewhere, specially also in connection with Chinese emigration to the Straits Settlements and Australia.

b. That comparatively little of this system of buying and selling human beings, as far as it is visible in Hong Kong, is connected with the Chinese systems of adoption and domestic servitude, and that what little there is of it here does not merit the designation of slavery, nor does it call for the interference of the law.

c. That there is, however, a system of buying and selling women and girls, and especially also kidnapping, conducted in Hong Kong, in connection with the existing system of prostitution of Chinese women in Hong Kong, in the Straits Settlements and elsewhere, and that herein is to be found the fountain-source of what, in a certain sense, may be called slavery and slave trade.

d. That the remedy lies, in the first instance, (to use Sir John Smale's words,) "in a "better registration of the inmates of brothels, in frequently bringing them before "persons to whom they might freely speak, and in authoritative interference with "the brothel-keepers."

So far I am entirely in accord with Sir John Smale.

3. I would, however, add that, in my opinion, the remedy here indicated is not sufficient in itself, but that further remedies, to which Sir John Smale might consistently agree, consist, firstly in a reform of the present system of examinations of passenger ships and emigrants, as conducted by the emigration officer in Hong Kong; secondly, in systematic co-operation, on the part of the emigration officer, the officer entrusted with the working of the Contagious Diseases Ordinance, and the Superintendent of Police, on the one hand, with both the Hong Kong Society for the Protection of Women and Children and the Government of Singagore, on the other hand; and, thirdly, in a reform of the system of examining Chinese female immigrants in Singapore.

4. As regards the points of difference between Sir John Smale's views as expressed in the papers before me and my own reports on the subject of slavery, I have but few remarks to make. In the first instance, I observe that in these papers the term "slavery" is indiscriminately used,—now in a strictly legal sense, and then again in its ethical or sentimental sense. As in the latter sense the word "slavery" can idiomatically be applied to any irksome form of drudgery people in many ranks of society have to submit to in all countries, the indiscriminate use of the terms "slavery" or "genuine slavery" is a source of confusion and error, to which I can trace some apparent differences between Sir John Smale and myself. Secondly, as regards all other points of difference between the views expressed in the papers before me and my own reports, I can also be brief. Sir John Smale asserts, whilst I positively deny, that the conditions of social life among the 150,000 Chinese in Hong Kong are radically different from the social life in China, that there is no ground to believe that the system of adoption has a religious basis, that there is relatively little or no family life among the Chinese here, that few if any well-to-do Chinese have their first wives here, that not one of the leading Chinese has his home here in Hong Kong, and so forth. Whilst positively asserting the reverse of each of these propositions, I must point out these are matters of which Sir John Smale could hardly be cognizant, as they lie as much beyond his sphere of knowledge and experience as English law lies beyond mine; whilst, on the other hand, the above-named propositions of Sir John Smale refer to matters which came under my daily observation, professionally, I may say, during the last nineteen years I was living here. I may further point out that independent and authoritative sources of information, such as are afforded by the Chinese Embassy in London and by the latest publication (Chinese Immigration, New York, 1881) of Mr. Seward, late United States Minister in Peking, appear to me to confirm the substance of my reports on slavery, whilst they tend, as it seems to me, to contradict the views expressed by Sir John Smale. Finally, it may not be uncalled-for to state that the reason why Sir John Smale fell into error is not merely that he wrote on a part of the subject of which he had no experimental knowledge, but chiefly also on account of his drawing at the time his information from a tainted source. I know that the person who supplied the information underlying the statements reiterated in these papers by both Sir John Smale and Mr. Francis is a foreigner,—ignorant of the written language of China, but possessed of a smattering of the lowest slang of Hong Kong,—a man whose knowledge of Chinese social life is confined to an intimate acquaintance with the lowest class of Chinese prostitutes.

5. There is, however, one other assertion of Sir John Smale's which requires refutation. Sir John Smale states, in his letter of 24th November 1880, with reference to the Chinese gentlemen who started the Society for the Protection of Women and Children, that "they "have not shown their bonâ fides, for not a step has, so far as I know, been taken by "them to form such an association, which required no aid from the Government." If Sir John Smale had taken the trouble to inquire, he would have found that in most of the cases of kidnapping he tried at the time when he wrote this erroneous sentence, it was due to the efforts of these very gentlemen that, in the first instance, the offenders were brought to justice. I have before me a list of 123 cases of kidnapping and illegal sale of women or children which this Society took up and dealt with between 15th January 1880 and the present day. An abstract I made of this record shows that, during the time mentioned, these gentlemen, whom Sir John Smale supposed to have

been inactive, detected and brought before the police 26 cases of kidnapping,—inquired, at the request of the Colonial Secretary, and reported on 19 other cases of kidnapping, and took charge of and eventually sent to their homes 98 kidnapped people. Of these kidnapped people 80 were sent to the Society by the Police Court, the Superintendent of Police, the Registrar General or Emigration Officer, and 18 from Singapore or other places. There are piles of correspondence between the Colonial Secretary and the Chairman of the Po-léung-kuk, as this Society is called, lying at the Colonial Secretary's Office, testifying to the immense activity of these gentlemen and their detectives. So far from their not having taken any steps to constitute themselves, as far as they could, without Government aid, they have materially aided the Government in detecting crimes of kidnapping; they caused a considerable increase in the number of cases of this nature brought before Sir John Smale, who saw an increase of crime where there was merely an increase of detection of crime. This Society, informally established since January 1880, has already compelled the kidnappers to change their mode of operation, and will, if duly supported by the Government, undoubtedly succeed to reduce the crime of kidnapping to a low ebb. But it is requisite that the solicitations and suggestions they made in correspondence with the Colonial Secretary be attended to; viz., that the Society be incorporated under a special Ordinance, and that the system of examining immigrants and female Chinese passengers by the Emigration Officer be amended so as to make the examinations more searching and more efficient by securing the co-operation of the Society in such examinations.

(Signed) E. J. Eitel.

2nd August 1881.

No. 19.

Governor Sir J. POPE HENNESSY, K.C.M.G., to the Right Hon. the EARL OF KIMBERLEY.

(Received October 24th, 1881.)

Government House, Hong Kong,
August 31st, 1881.

My Lord,

I have the honour to enclose a copy of the Report, dated the 17th instant, of the Attorney General, Mr. O'Malley, on Chief Justice Sir John Smale's statements, made from time to time by his Honour in sentencing prisoners for kidnapping, or in delivering judgments relating to the brothel slavery in Hong Kong.

2. I find nothing in the Attorney General's report that renders it necessary for me to add to what I have already written on the general question.

3. The apparent difference between Mr. O'Malley's views on brothel slavery and the views of Sir John Smale is due to the fact that Sir John Smale knew that the real brothel slavery exists in the brothels where Chinese women are provided for European soldiers and sailors; whereas Mr. O'Malley, in discarding the use of the word slavery, does so on the assumption that all the Hong Kong brothels form a part of the Chinese social system, and that the girls naturally and willingly take to that mode of earning a livelihood. This is a misconception of the actual facts; for though the Hong Kong brothels, where Chinese women meet Chinese only, may seem to provide for such women what Mr. O'Malley calls a natural and suitable manner of life consistent with a part of the Chinese social system, it is absolutely the reverse in those Hong Kong brothels where Chinese women have to meet foreigners only. Such brothels are unknown in the social system of China. The Chinese girls who are registered by the Government for the use of Europeans and Americans detest the life they are compelled to lead. They have a dread and abhorrence of foreigners, and especially of the foreign soldiers and sailors. Such Chinese girls are the real slaves in Hong Kong. The statement made many years ago by a Registrar General, Mr. C. C. Smith, which your Lordship quotes in a Despatch of the 26th July, 1881,* to the opposite effect, is entirely misleading.

4. To drive Chinese girls into such brothels was the object of the system of informers which Mr. C. C. Smith for so many years conducted in this Colony, and which in his evidence before the Commission on the 3rd of December, 1877, he defended on the ground of its necessity in detecting unlicensed houses, but which your Lordship has now justly stigmatised as a revolting abuse.

5. On another point the Attorney General also seems not to appreciate fully what he must have heard Sir John Smale saying from the Bench in the Supreme Court. It would be a mistake to think that the Chief Justice had not before he left the Colony

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* No. 38 of C. 3093 of August 1881.

MINUTE of the GOVERNOR.

IN what state are my minutes about the Chinese Society for the Protection of Women and Children, calling for a report, &c. ?

Also as to my minutes on the Chief Justice's letters to Lord Kimberley ?

(Signed) J. POPE HENNESSY.

29th March 1881.

MINUTE by the ACTING COLONIAL SECRETARY.

THE papers were sent to the Attorney General on the 30th September last (1880).

(Signed) FREDERICK STEWART,
Acting Colonial Secretary.

29th March 1881.

MINUTE by the GOVERNOR.

No doubt this will now be attended to.

(Signed) J. POPE HENNESSY.

30th March 1881.

Enclosure 2 in No. 20.

(*Translation.*)

RULES and REGULATIONS agreed upon for the ASSOCIATION FOR THE PROTECTION OF HONEST PEOPLE, for the DETECTION and SUPPRESSION of CRIMES of KIDNAPPING, as well as for the PROTECTION of WOMEN and CHILDREN.

1. The subscribers shall conjointly constitute one Society, viz., the (above mentioned) Association, and may from among the members of the Association publicly elect ten Directors, who shall have power to carry into effect all legal measures.

2. No distinction shall be made as to the amount of subscription, but subscribers of $10 shall be considered as members of the Committee of the Association, and shall have a vote at all public discussions of the same. After the first subscription has been made, no further subscription need be raised unless the funds of the Association are found insufficient to meet the expenses and cause a stoppage of its operations, whereupon the members of the Committee of the Association will exert themselves and raise an additional subscription, but the amount of the individual subscriptions will be left to the voluntary effort of each, and there shall be no compulsion.

3. The Association is established with a view to afford protection to honest women and to children, that is to say, to discover and repress crimes of kidnapping and to rescue kidnapped persons.

4. Whenever any male or female children have been kidnapped and are unlawfully brought to Hongkong, be it for purposes of prostitution or for domestic servitude, for the purpose of sale for adoption or apprenticeship, or for the purpose of hypothecation or re-sale to a foreign port, or when any person is brought here under false and specious pretence, and not of his or her free will and accord, in any such case coming to the knowledge of the Association, some means must be devised for the rescue of such persons, so as to enable them to return to their homes.

5. Whenever it happens that any kidnapped person, male or female, is required to wait till the case has been tried in Court before he or she can be discharged, such person shall be temporarily detained by the Association until the case has been finally settled, when such person shall be assisted to return to his or her native place.

6. When it happens that a kidnapped person has no home to go to, the Association shall, in the case of a girl, make arrangements for her betrothal or find some trustworthy persons who are willing to adopt her or bring her up to be a daughter-in-law, and in the case of a boy, he shall be given in adoption, or apprenticed, or other provision made to give him a shelter, so as to prevent his being homeless. For these reasons, it will be necessary to erect a building where homeless persons may find temporary residence and comfort, and it is for this purpose that subscriptions are required.

co-operation, but if by accident the Association should unwittingly exceed its powers, application shall also be made to the Government for forbearance.

The above twenty regulations are herewith expressly submitted to His Excellency the Governor for ratification, and an official reply will be awaited before they are given effect, and further, the Government is entreated to embody these Rules and Regulations in a Special Ordinance to ensure their permanency. Such is the Petitioners' earnest prayer.

28th September, 1880.

(*Translation.*)

RULES and REGULATIONS of the COMMITTEE of the ASSOCIATION for the PROTECTION of HONEST PEOPLE.

1. This Association will call every year at a certain time one General Meeting of all the Committee members to arrange for the public election of Directors, also to examine the accounts, which will then be submitted to the Government for its information and so forth.

2. All Committee members who have been elected Directors, will, when their term of office is about to expire, or at least half a month prior to its expiry, tender their resignation, so that others may be elected from among the number of Committee members, but if again elected they may resume their office. The names of the persons so elected will, however, have to be submitted to the Government for the information of His Excellency the Governor.

3. When the time comes for the Annual General Meeting, previous notice thereof must be given to all Committee members, inviting them to come and take part in the meeting, or notice be given at least 7 days previous by insertion in one of the Chinese newspapers, so that all may be informed.

4. At the ordinary meetings of the Directors three Directors present to sign the papers shall form a quorum.

5. Managers or Agents or others employed by the Association will, if involved in any litigation, being charged by others on account of public business, or charging others on the same account, have all their expenses paid from the public funds.

6. From among the Directors who have been publicly elected out of the number of the Committee members, there shall be elected a Chairman, a Vice-Chairman, and a Treasurer, and they shall be responsible for what they do.

7. The Treasurer shall be selected from among the Directors and be appointed by them, and shall be authorized to make all arrangements for getting good interest and so on. If the said officer is found deficient in his accounts, the nine other Directors shall be responsible for the amount, and no excuse will be allowed. As to putting out money on loan, the said officer shall at the time consult the other members and act accordingly.

8. Each of those who have been elected Directors shall, on entering office, sign a declaration on oath to signify his sincerity and disinterestedness.

9. Every Detective to be employed by the Association must find two respectable and substantial persons to stand security for him, each signing a bond for $250 guarantee against extortion, coercion or trumping up of false charges or other offences, and on entering office he shall further be required to sign a declaration on oath in proof of his good faith.

10. Any Rules and Regulations passed by the Directors from time to time after due discussion may be successively added with a view to consolidate the system and to perfect it in details.

11. All Committee members should be careful to cherish the principle of human charity and entirely refrain from any improper action, but on meeting with kidnapped persons proceed with increased alacrity or join other members of the Association in energetic efforts for their rescue, and further, by some means or other, get the kidnappers arrested and handed over to the Government to be prosecuted, all with the hope that these evil practices be eradicated, when all people will rejoice over the riddance, which is the great aim of this Association.

12. All Committee members should be careful not to listen to any slander and thereupon lose courage and draw back half way, which would be wasting all the trouble taken in organizing this scheme. But it is hoped they will deal with every case with straightforwardness, when they need not be ashamed before gods or men, but will be able to face the bright spirits, and if after all there is vituperation or praise, they need not trouble

9. There is, I think, an objection to recognizing the publication of Ordinances[9] by any one except the Government itself. The Government should be described as *the* Government, not as the *English* Government.

10. The effect of this[10] would be apparently to make the Government responsible for the audit of the accounts.

11. This article[11] provides for a body of private detectives to be armed with the powers of constables and to exercise such powers not under the immediate supervision and control of the Government. I do not know of a precedent for any delegation of police functions of this character. An Ordinance to provide for it would, I think, be unconstitutional. All that might be required might, perhaps, be secured by telling off a few constables to perform special duties in aid of the association's inquiries, but even this would have to be very cautiously guarded.

12. This is[12] a matter with regard to which the Government should keep a complete discretion so far as the law leaves it in its own hands.

13. According to our law, persons or associations who exceed their powers are dealt with by the law, and the Government cannot enter into any understanding beforehand by which it might appear that it either could or would control the operation of the law.[13]

14. These rules, if amended in accordance with the foregoing notes, would require no Ordinance to give them effect, nor do I understand that it is contemplated by the Governor to do more than give countenance and assistance to an association conducting its operations subject to the existing law, and having for its object to assist and watch the operation of that law so as to make it as effectual as may be for the suppression of kidnapping.

15. This should be omitted.[14]

16. This article is subject to the observations in note 11.[15]

17. Handed over "to justice" would be the right way to express this.[16]

(*Draft Rules sent with foregoing.*)

RULES for the SOCIETY for the PROTECTION of WOMEN and CHILDREN.

1. The object of the Society is to assist in the suppression of the crime of kidnapping, and to provide for the rescue and restoration of kidnapped women and children.

2. The Society shall consist of subscribers of ten dollars, residents in the Colony.

3. The Society shall have an office in Hongkong.

4. The affairs of the Society shall be managed by a Committee of ten members, who shall be residents in the Colony.

5. The Committee shall be elected annually.

6. Members of the retiring Committee will be eligible for re-election, but no member can be a member of the Committee for more than three years in succession.

7. The names of members elected on the Committee must be submitted to the Governor within a week of the election, and upon the Governor notifying to the Committee his objection to any member whose name is so submitted, such member shall cease to be a member of the Committee, and the Committee may themselves elect another member of the Society in his place, subject in the same way to the Governor's objection.

8. The Committee shall elect from amongst its members a President, a Vice-president and a Treasurer.

9. The President or Vice-president or Treasurer and two other members shall form a quorum of the Committee.

10. There shall be an annual meeting of the Society to be held at the office in the month of . . .

11. At the annual meeting, the election of the Committee shall take place, and the outgoing Committee shall present a report of its proceedings for the preceding year, including a complete statement of the financial position of the Society, duly audited.

12. The Society will endeavour by correspondence and inquiry to assist in the detection and bringing to justice of persons guilty of kidnapping and kindred offences. The Society will also endeavour, by the establishment of a Home in Hongkong, to provide temporary accommodation for destitute women and children who may be rescued from

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[9] Rule 18. [11] Rule 18. [13] Refers to rule 20.
[10] Rule 17. [12] Rule 19.
[14] Refers to rule 5 in the second list of rules. [15] Refers to rule 9 in the second list of rules.
[16] Refers to rule 11 of the second list.

illegal custody. The Society will also endeavour to restore rescued women and children to their relatives, and in the case of those who are friendless, to make such provision as may be proper for their welfare.

13. Detective and other constables may, from time to time, be placed at the service of the Society upon such conditions as may be sanctioned by the Governor.

14. Detectives and constables employed by the Society shall act only under written instructions signed by the President or Vice-president of the Society.

15. The Committee first elected shall appoint two of their number to be trustees, and such trustees shall be the lessees of any Crown Lease granted by the Government to the Society for the purpose of a Home. In case of the death of a trustee, the Committee for the time being shall elect one of its members to take his place.

16. The Committee may, from time to time, make and revoke rules for the management of the affairs of the Society; such rules being submitted for the Governor's approval before they are put into operation.

No. 21.

The Right Hon. the EARL OF KIMBERLEY to Governor Sir J. POPE HENNESSY, K.C.M.G.

Sir, Downing Street, 3rd November 1881.

I have the honour to acknowledge the receipt of your Despatch, of the 31st of August,* forwarding printed copies of rules which have been drawn up for the Society for the Protection of Women and Children, together with the Attorney-General's criticisms upon them and alternative rules which he has drawn up.

2. Judging from the previous correspondence on the subject, I conclude that the rules which Mr. O'Malley has submitted have received the official recognition of your Government, and if this be the case it only remains for me to reply to the second paragraph of your Despatch, in which you recommend that an Ordinance should be sanctioned "giving "legislative force to the regulations and corporate existence to the Society."

3. I am unable to see the necessity of passing a special Ordinance as you suggest, and it appears from the Attorney-General's Note, No. 14, that he is of the same opinion; nor do I understand why the Association requires corporate powers. If, however, such powers are required, it would seem to be sufficient that the Association should be formed under the Companies Ordinance of 1865; and that formal approval should be given to its rules and organisation by the Local Government. I expressed my opinion to that effect in paragraph 4 of my Despatch of the 20th of May 1880.†

I have, &c.

Sir J. Pope Hennessy. (Signed) KIMBERLEY.

No. 22.

The Right Hon. the EARL OF KIMBERLEY to Governor Sir J. POPE HENNESSY, K.C.M.G.

Sir, Downing Street, 18 March, 1882.

I have had under my consideration your despatch of the 31st August 1881,‡ transmitting a report by the Attorney General, Mr. O'Malley, upon Sir John Smale's statements from the Bench respecting the alleged existence of slavery in Hong Kong. Mr. O'Malley's remarks appear to me to be well considered and convincing, and I have now the honour to transmit to you in print the correspondence on this subject, which is to be laid before the House of Commons, and to which this Despatch will be added.

2. In your Despatch of the 23rd January 1880, you forwarded with other documents§ a copy of a statement made by Chief Justice Sir John Smale from the Bench on the 6th October 1879, in the course of which he observes (page 7 of print) that on the 24th of January 1845 a proclamation was issued in these words:—

"Whereas the Acts of the British Parliament for the abolition of the slave trade and "for the abolition of slavery extend by their own proper force and authority to Hong

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* No. 20. † No. 8. ‡ No. 19. § No. 1.

" Kong, this is to apprise all persons of the same, and to give notice that these Acts " will be enforced by all Her Majesty's officers, civil and military, within the colony."

Sir John Smale concludes his statement with a summary of his views, divided under eight heads (page 9 of print); in the fifth of these he cites the above-mentioned proclamation as declaring that the English laws against slavery would be enforced by Her Majesty's officers, and in other places he asserts that these laws had not been enforced. with the result that there are now a great number, 10,000 or even 20,000 slaves, in Hong Hong.

3. Desiring to be more precisely informed of the circumstances in which Sir John Smale's statement, involving so grave a charge against Her Majesty's officers responsible for the administration and execution of the law in the colony was made, I instructed you in my despatch of the 20th of May 1880* to request him to be good enough to specify the Acts of Parliament which he considered have not been enforced in Hong Kong, and the particular sections to which he alluded. Your Despatch of the 4th of August 1881† transmits Sir John Smale's reply to my question in a letter dated the 20th of August 1880, in which he says: " I am not aware that on any of the three occasions on " which I have spoken on the subject I have said anything to give rise to the question " * * * I have on the three occasions above referred to cited all the Acts " and Ordinances which I thought apply."

4. These occasions are the 6th of October 1879 (pages 5–10 of print), the 27th of October 1879 (pages 10–13), and the third apparently on the 31st March 1880 (*see* page 99). It seems that Sir John Smale does not allege that the existence in Hong Kong of the slavery to which he refers arises from the neglect to enforce any specific Act of Parliament, and looking to the first head of his summary, page 9, to the passage on page 13, and to a sentence in his letter of the 24th November 1880 (*see* page 101), I gather that this last sentence (page 102) states succinctly the views upon which he bases the assertion that children who are said to be bought and sold in Hong Kong become the slaves of their so-called purchasers.

5. At page 102 Sir John Smale says; " The law of England, as I have learnt it, is " that no one can sell his own liberty or that of any dependant; that to sell or buy such " liberty is an offence against the law; and therefore, in the absence of a special penalty, " a misdemeanour."

6. There can be no doubt of the correctness of the first clause of this proposition, and it follows that no one can become legally a slave where the law of England prevails. Slavery in its technical sense can only exist in a country where the law recognises and will enforce the claim of the master to dispose of the person and liberty of the slave, or at least will not interfere to control the authority of the master over the person and liberty of the slave, except perhaps for the repression of cruelty such as would in a civilised state be repressed in respect of domestic animals. There can be no doubt also that whoever commits an act which the law prohibits is guilty of a misdemeanour (supposing the law has not declared such act to be a felony), but the middle term of this proposition " that to buy or sell such liberty is an offence against the law," fails to distinguish transactions which are effectual, and would be lawful unless prohibited, from transactions which in view of the law are empty forms having no tangible effect or result. Going through a form which is a nullity cannot, I apprehend, be a criminal offence except by the operation of an express statute giving it that character, and I know of no Act of Parliament which makes a pretended sale of human liberty a crime.

7. You will find at page 94 of the print a copy of a document called a bill of sale which Sir John Smale adduces as proof of slave-holding in the colony, but I fail to perceive that he has anywhere explained how this process can produce so singular a result as that when a father for a sum of money delivers his son into the control of another person and the transaction is evidenced by a document in this form, the son, although on British territory, thereby loses his status as a free person. Yet it would be necessary that this result should be clearly established before it can be admitted that the transaction creates slavery or amounts to slave-dealing. The fact appears to be that Sir John Smale, in his praiseworthy aversion to anything savouring of slavery, has been misled by the terms " purchase " and " sale," and with the best of intentions has failed sufficiently to examine whether those terms are correctly applied to the transaction which they represent in this case.

8. It may be a question whether the subsequent treatment of children, boys or girls, who are said to be sold for adoption, domestic servitude, or prostitution, is such as to

* No. 8. † No. 18.

merit the term slavery in its colloquial sense, but if so, such treatment would presumably result in acts sufficient to bring within reach of the criminal law the persons to whom the children have been delivered. It seems, indeed, that the criminal law of the colony is not only strong enough to reach all ordinary cases of ill-treatment, but that it affords special protection to women and girls; and the fact that the law if invoked by or on behalf of such children will afford them the same protection as to other members of the community is in itself a proof that they are not slaves in any technical sense.

9. It is desirable, however, putting aside the question of slavery in the legal sense of the term, to consider what, if any, is the legal effect of such a contract as is evidenced by the so-called bill of sale of which a copy is given on page 94 of the print. This document appears to be in effect an agreement for valuable consideration, whereby the father divests himself of the control of his son, an infant of tender years, and transfers this son to the custody of a stranger. Whatever may be its effect if made in the Empire of China, it is quite clear that in Hong Kong, where the common law of England prevails, such an agreement is absolutely void, as being contrary to public policy. It is to the interest of the State that the boy should be properly brought up, and the law which recognises the power of a parent over his child requires him to discharge the correlative duty of education, and will not allow him, by divesting himself of the control, to incapacitate himself from seeing to the education of the child. The father may of course deliver his child to another for education, but he may at any time reclaim the child from the person to whom he has been temporarily confided. And this principle is carried so far that, although the power of the parent over the child is subordinate to that of the State, the State by the courts of law will only interfere against the parent in cases where the father has been guilty of the abandonment of the parental duty, or abuse of the parental power, and the father may in England assert his rights in the following manner.

10. The father as being entitled to the legal custody of his child, if still a minor may sue out of a writ of habeas corpus addressed to any person who detains the child against the father's will, even though such person has received the child from the father. The child being thus brought before the Court will, if of tender years, be delivered to the father, but if of an age to judge for itself will be discharged from the illegal custody, and be left free from all restraint, and at liberty to go where it will, even, if it pleases, to the care of the person from whose custody it has just been discharged. But the rule must be understood with this qualification, that if it appears to be improper that the father should have the custody of the child who is too young to make an intelligent choice, the Court may exercise a discretionary power in assigning the custody of the child to some other person.

11. And it should be observed that in a case of habeas corpus the question is as to the liberty of the child, and the decision will be given without reference to any pecuniary questions that may arise out of the father's transactions with the person claiming custody of the child.

12. It is right, however, to refer to the system of apprenticeship as known in England. That system is one of special contract, in which the apprentice, although a minor, is allowed by the law to join, as being to his advantage, and it entirely depends upon his consent, so that a deed of apprenticeship though signed by the master and father is invalid unless executed by the apprentice himself. But it is unnecessary to pursue this branch of the subject, for I understand that the transactions at Hong Kong do not take the form of binding lads with their own consent to particular persons for a definite number of years to learn particular trades.

13. There seems to be some uncertainty as to facts in the matter of Chinese adoption in the Colony, for I notice that Sir John Smale at page 102 says that he never heard of a case of purchase for adoption in the Colony, not a single case has come before him. It is not very clear, however, what else is the condition of the boy referred to in the document at page 94. "The buyer is at liberty to take him home and change his name and surname, and rear him up with prosperity," and I also observe that Dr. Eitel in a Minute forwarded by you on 23rd January 1880 (p. 14 of print) speaks of the demand for young children under the system of adoption and domestic service as being large at an average price of $40. On the other hand you say in paragraph 20 of your Despatch of January 23rd 1880* (p. 4 of print). "My advisers recommended that no pro-
"secutions in connexion with adoption and domestic service should be instituted pending
"the receipt of instructions from you (the Secretary of State). I mentioned this recom-

* No. 1.

" mendation to the Chief Justice who entirely concurred in it. He further recommended " that the Chinese should be told that no prosecutions as to the past would take place, " but that in future in every case where buying or selling occurred in connexion with " adoption or domestic service the Government would undoubtedly prosecute. This " recommendation appears to me to be reasonable."

14. You have, however, since satisfied yourself, as you inform me in your Despatch of the 15th of June 1881* (page 94), that there is nothing illegal in the ordinary mode of adoption of Chinese children in the Colony. Mr. Francis, page 112, paragraph 14, says, " The buying and selling of boys is rare as compared with the buying and selling of " girls * * * * Still children (males) are bought and sold in Hong Kong for " adoption * * * * They may become by such sales sons, not slaves."

15. But if children bought for adoption do not become slaves it is still true that there is in Hong Kong a certain and perhaps a considerable number of children who have been the subjects of what purported to be transactions of sale. I cannot doubt that in the majority of these transactions the sellers have believed they have validly sold, and the buyers that they have validly bought that for which money has passed, and the children themselves can scarcely help believing that they are in bond to their possessors. Such a system evidently requires most careful consideration, especially if Dr. Eitel's opinion be accurate (p. 14) that there is cause to believe that the abuses naturally connected with it tend to encourage kidnapping.

16. I put aside for the present the question of brothel girls. Their condition and the means by which the supply is kept up are well known, and I do not find that any additional light is thrown upon them by these papers. The Ordinance No. 2 of 1875 has already made the sale or purchase of any woman or child, or the bringing into the Colony of any woman or child sold or purchased for purposes of prostitution, or the receiving or harbouring of any woman or child known to have been so sold, a misdemeanour. I have also directed you in my Despatch of July 26, 1881,† to register brothel houses, and facilitate inspection of them, so that the inmates may have full opportunities of appealing in cases of wrongful treatment, or of their detention against their will, and I shall at any time be most ready to consider any practical measures for bettering the condition of this unfortunate class which your local knowledge or that of any other gentleman on the spot may devise.

17. The questions arising out of the condition of adopted children, or of children employed in the domestic service, are more perplexing. It may be that these children also are adequately protected by the law as it stands. If a mistress beats her servant girl, or a man ill-treats his adopted son, the law is doubtless strong enough to punish his offence; and any charge of kidnapping would equally be dealt with by the Courts. The so-called sales are nullities; they do not either give the supposed purchaser any rights over the liberty of the child, or deprive the parent of his right to the custody, if he chooses to reclaim the child by the proper legal process; or deprive the children of the right to appeal to the law for protection against ill-treatment, in whatever form such ill-treatment may be found; and it is, I apprehend, open to anyone who can establish a primâ facie case to show that a child is improperly detained, to sue out a writ of habeas corpus requiring the child to be brought before a proper Court.

18. Still I cannot avoid the conviction that the position of the children now under consideration is one of peril which may require safeguards. It would be possible to provide that entering into any agreement, written or oral, by which the right of possession of a child purported to pass for a valuable consideration, should be a misdemeanour; but this would probably brand and punish as offences many transactions, advantageous to the child, both immediately and in after-life, and it would not reach such transactions when effected, as appears frequently to be the case, in the Empire of China, the child being subsequently brought into the Colony. Another course would be to make all such transactions misdemeanours unless they confirmed to certain specified conditions prescribed so as to secure, as far as possible, that they should be for the welfare of the child. A third course would be to require all children taken into adoption to be registered, and thereafter subject to visitation, such as is voluntarily undertaken in the case of what has been called the "gutter-children" of this city, who have been conveyed by charitable agencies to the dominion of Canada and there apprenticed.

19. But I am checked in the consideration of these and other propositions by my uncertainty as to the facts of the system of child adoption and domestic service as it

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* No. 14. † No. 38 of [C. 3093] of August 1881.

prevails in Hong Kong, which are represented with the greatest diversity by those who approve and disapprove of the system. I desire, therefore, that you will institute a full and trustworthy inquiry into the facts, forwarding to me as soon as it can be completed a report thereon; and I request that in connexion with such report the question may be considered whether any, and if so what, measures should be taken to remove any of the evils that may be brought to light by the inquiry.

20. I have to add that the draft of this Despatch was submitted to the law officers of the Crown, who have informed me that the statement of the law on the subject as contained in it is correct.

I have, &c.

Sir J. Pope Hennessy. (Signed) KIMBERLEY.

LONDON:
Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty.
For Her Majesty's Stationery Office.