Tenuous silence : urban anxieties and the mitigation of noise in Singapore, 1870 - 1939

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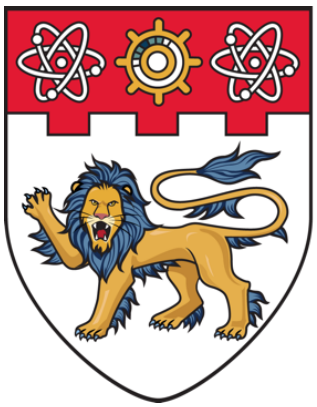

NANYANG TECHNOLOGICAL UNIVERSITY
SINGAPORE

TENUOUS SILENCE: URBAN ANXIETIES AND THE MITIGATION OF NOISE IN SINGAPORE, 1870 – 1939

GRACE TEO JIE YING

SCHOOL OF HUMANITIES

2020

Tenuous Silence: Urban Anxieties and the Mitigation of Noise in Singapore, 1870 - 1939

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A thesis submitted to the Nanyang Technological University in partial fulfilment of the requirement for the degree of Master of Arts

2020

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SUMMARY

Legislative regulations, law enforcement, and judicial processes formed part of the solution dedicated to the 'sanitizing' of Asian music in public streets and residential neighbourhoods in Singapore between the 1870s to 1890s. Demands for government intervention to maintain law and order since the mid-nineteenth century culminated in early drafts of police laws governing Asian street and stationary music in the 1870s. In 1895, grievances towards the disturbances to sleep and quiet living conditions by Asian music in wayangs or private musical performances reached a crescendo in the English-language noise nuisance discourse in the press. Judging by the sentiment of the European community, who heard the sounds of Asian music as unfamiliar and unrelenting noise, the demands for more stringent laws and tighter regulations was both an appeal to the colonial obligation to rule and a deeper reflection of racial encroachment fears in the neighbourhood. Using a selection of newspaper commentary and reports on legal cases, the thesis peeks beyond official discourse and legislative wording to examine its actual practice with its intended consequences and unprecedented limitations. While the playing of Asian music in public streets was subjected to licensing requirements under the 1870s regulations, the ease of suppression of unlicensed public noise contrasted the state of the law that was seemingly ill-equipped to address private noise. Due to the public jurisdiction of nuisance abatement laws, the reluctance to be seen as overstepping on religious freedom and Asian liberties in legislative and judicial matters, and an absent collective front against neighbourhood noises, the thesis argues that individual complainants faced mounting challenges in seeking redress for private or domestic noise nuisance well into the twentieth century. By demonstrating that the law was not immediately advantageous to European complainants of noise, the thesis suggests that the practice and enforcement of the law in music regulation nuances the balance of power in the colonial setting.

Chapter One: Introduction

> *Since coming to Singapore I have been disturbed, surprised and annoyed almost daily and certainly nightly by the various hideous noises that continually go on here, evidently absolutely unrestrained…From daylight till dark the yells of street vendors and hawkers of various sorts jar on the ear and nerves almost incessantly…while the night is positively made hideous by all the foregoing added to by Chinese wayangs…These noises continue till all hours – in fact, regardless of time and place, rendering otherwise peaceful localities perfect infernos of noise, uproar and discord.*[1]

> *No one will deny that people who have resided in this country for any length of time get nervy…Whilst allowing that the climate is enervating and non-recuperative I think the want of restful quiet night or day is an item that should receive more attention, considering its deleterious effect upon our nerves. Sounds seem to carry much further here than in more temperate atmospheres and owing to the necessary openness of our houses, we cannot shut them out.*[2]

Hideous, nerve-racking, deafening, raucous, and intolerable. These were the common descriptors of sounds found disagreeable to European ears in Singapore in the late nineteenth and early twentieth centuries. The local news in the British colonial settlement were rife with editorials and complaints depicting a constant and inescapable state of noisiness in the Singapore town that its resident population was subject to. Regular coverage of an increasing range of noisy sounds, activities, and their origins portrayed a Singapore that was getting noisier and noisier by the decade,

[1] Peaceful, "Making Night Hideous," Correspondence, *Straits Times* (*ST*), 14 December 1910.

[2] A Victim, "Nerves and Noises," Correspondence, *ST*, 7 March 1922.

and by extension, less liveable, conducive, and hospitable to European residence. With the increasing publicity of noise abatement campaigns, research, and newly revised municipal noise laws crowding the imagination and readership in the first three decades of the twentieth century, the sounds of unruly traffic, unrestrained motor tooting and bicycle bell-ringing, and the unbridled use of loudspeakers and gramophones serving as talking points of the 1920s and 30s heightened concerns of a Singapore soundscape assuredly headed for bedlam.[3] The 1930s especially marked a decade of significance in the crackdown on street noises, with the passing of several "Anti-Noise" bills in the Straits Settlements Legislative Council targeting both the sounds and acts of cracker-firing, wireless gramophones, and itinerant hawkers.[4]

As much as the fanfare over suppressible street noises is telling of the colonial administration's preoccupations in the twentieth century, the periodization of this era heralded as the 'Age of Noise' and its preoccupation with the noise of the machine and the motor conceals earlier concerns over sources of non-mechanical noise. The longer history of noise concerns in the Singapore colonial space predating the 'Age of Noise' points to a lasting sociocultural hearing of noisy sounds rooted in the uneasy anxieties of colonial living held by a transient European resident population numbering in the minority. With the selective hearing of 'native' or 'Asian' sounds as noise set in racialized terms, the perception of these sounds as unfamiliar, unrelenting, and nearly impossible to mute or to shut out contributed to a sense of mounting frustration and helplessness in European residents. The same noisiness present in the everyday problems of colonial living

[3] C. H. Stanley Jones, "Noisy City of Singapore," *Sunday Tribune*, 14 February 1937; "Bedlam", *ST*, 6 November 1930.

[4] The Straits Settlements were made up of the crown colonies of Singapore, Malacca, and Penang in 1867. The Legislative Council (hereby abbreviated LegCo) was a law-making body of elected official and non-official members deliberating over legislative revisions with the Executive Council that applied to all three Settlements. With Singapore being the official headquarters of the Strait Settlements colonial administration,

were lent an ear by the colonial administration, when Asian musical activity was reproduced discursively as problematic and preventable noise, and thereafter reinforced by certain legal ordinances to be illegal and unsanctioned. Sound, space, and time, I suggest, were inextricably tied to one another in the outlooks and physical environment of the colonial class in the conception of noise as a threat and as a problem.

To kick off the analysis of historical attitudes to noise, the present chapter starts with an introduction to the histories of sound and noise in which to situate the study of 'subjective hearing', a fundamental concept of the sociocultural production of noise which the current thesis expands on. Building on the understanding of hearing as a culturally and historically generated way of knowing and consciousness, the historiographical review also suggests that valuable insights can be gained from paying attention to sound in historical research, and from marrying the sensory history approach to colonial histories to examine how law, power-relations, and racial identity coincided with and developed as a result of the hearing senses of historical actors. Following that, the next section provides a contextual grounding of the Singapore soundscape, structure of colonial society and hierarchy, and its legislative trajectory. This segment begins its forays into the framing of locations, actors and institutions that overlaid the cacophony of sounds that residents and officials were enmeshed in. The final section on methodology and approach concludes this chapter with the introduction of the thesis' framework, argument, and outline of chapters.

1.1 What is Noise?: Sociocultural Mouldings

Deriving from the Latin *nausea,* noise's negative connotations commonly placed it in a "broad yet imprecise category of sounds that register variously as excessive, incoherent, confused, inarticulate or degenerate"[5]. On a technical level, loudness and sounds lacking in tone or pitch could also count as noise, or that which interferes with any intended signal like radio noise. Where the sounds of speech, language, and music are intelligible, noise appears as nonsense.[6] Derived from R. Murray Schafer's 1977 study that popularized the usage of the 'soundscape', Schafer's attempt at a documentation of major sound paradigms in human history operates on the basis of separating noise from silence. In Schafer's historical trajectory of sounds of an Anthropocene increasingly saturated with noise, the sounds of the urban centres, industrial machinery, vehicular traffic, street peddlers and musicians contributed to intensively noise-riddled centuries dating from the Industrial Revolution. The clangour of church bells, the playing of organs and the rites of festive celebrations that broke the tedium of silence in the pre-industrial ages represented sacred noise that contrasted with the relative silence of the secular or profane.[7] The suppression or muting of sacred sounds in the gradual eviction of public religiosity of the nineteenth and twentieth centuries, as it came to be replaced the sounds of machinery, mass transport, and industry, represents one shifting paradigm of the heard soundscape.[8]

Apart from noise's attachment to ideas of loudness, industry, and pollution, noise's association with negative affectivity, of being unwanted, unpleasant, and undesirable, emerges out

[5] Peter Bailey, "Breaking the Sound Barrier: A Historian Listens to Noise," *Body and Society* 2, no. 2 (1996): 50.

[6] Ibid.

[7] R. Murray Schafer, *The Soundscape: Our Sonic Environment and the Tuning of the World* (Rochester, Vermont: Destiny Books, 1994), 51 – 55.

[8] Isaac Weiner, *Religion Out Loud: Religious Sound, Public Space, and American Pluralism* (New York: New York University Press, 2013);

of the interaction of different sociocultural groups. As Marie Thompson notes in her study of the methodological bases of unwanted sound, the articulation or occurrence of noise bears a social function in two regards. Firstly, the perception of noise can occur from the tension or conflict between two or more different sonic ideologies. One community's valuation of silence, privacy, and tranquillity could be upset by the persistence or ill-timing of sounds from another's activity, sounds either musical or mundane. At other times, sounds are heard as noise when it interrupts or disrupts another's activity. Examples of this interactions are the removal of organ-grinders in the attempted silencing of streets in Victorian London by writing professionals conserving their domestic thought space, and the alteration of bell ringing to be less intrusive to morning sleep.[9] Secondly, it also bears an 'othering' purpose. Heard as unfamiliar and foreign, categorizing sounds as noise serves multiple purposes – to remain removed from it, to be on the watch for it, and in some cases, to silence it.[10] For example, to hear the sounds of slavery as anything but noise or unmeaningful sound was to humanize and empathize with the enslaved. Although not always in relation to one another, noise formed the opposite to that which was considered music or musical. The popular music of the masses or that of the street crier and the organ grinder were regarded as noises made by unmusical and unrefined persons by intellectuals, serious musicians, and the aspiring bourgeoisie of the sixteenth to nineteenth centuries.[11] This oppositional relation relies primarily on a dualist aesthetic moralism underlying Schafer's work that positions noise's bad to silence's good.

[9] John M. Picker, "The Soundproof Study: Victorian Professionals, Work Space, and Urban Noise," *Victorian Studies* 42, no. 3 (1999): 427–53; John M. Picker, *Victorian Soundscapes* (Oxford University Press, 2003); Simpson, "Sonic Affects and the Production of Space,"; Alain Corbin, *Village Bells: Sound and Meaning in the Nineteenth-Century French Countryside*, trans. Martin Thom (New York: Columbia University Press, 1998).

[10] Marie Thompson, *Beyond Unwanted Sound: Noise, Affect and Aesthetic Moralism* (New York: Bloomsbury, 2017), 26 – 28.

[11] Emily Cockayne, *Hubbub: Filth, Noise & Stench in England 1600 – 1770* (London: Yale University Press, 2007).

The subjective perception of noise draws from the approach to hearing as a culturally and historically generated way of knowing. Hearing noise is to select and target sound through a sociocultural filter. Through hearing, sounds *become* noise as a result of enculturation and its situated norms, environments, and discourse. The sociocultural embeddedness of hearing sound, music, and noise has been emphasized repeatedly by scholars writing the histories of hearing. As a product of its place and time, sensory perceptions, including aurality, was as much a physical as well as a cultural act.[12] The senses were anything but universal, and rather than being discussed as an "is"[13], Mark M. Smith stressed on the situatedness of hearing, smell, and taste as containing as well as evolving alongside prevalent notions of modernity held by contemporaries in the studied historical period. This modernity, defined by Smith, included the categorization of race, industrialization, segmentation of elite and working classes and gender roles, the imperialist project, and "the creation of multiple others"[14], and involved the control and production of sound.[15] The desire for quietude, for instance, was an elitist expression of productive contemplation as it was a reflection of social order in sites of discipline and control, which fed into the sensorial distancing that elites took to from the riotous mob of masses.[16] As Paul Hegarty argues, noise could only exist in relation, heard by individuals who regarded themselves as being subject to noise; noise categorizes, structures, and defines the sounds of 'other people'.[17] In this regard, noise was a specific category of hearing created and reinforced by a particular sonic ideal. Simultaneously, sonic identities associated with a predisposition or preference for noise – pegged

[12] Mark M. Smith, *Sensory History* (New York: Berg, 2007), 3.

[13] Ibid.

[14] Ibid., 18.

[15] Ibid., 52.

[16] Ibid., 41 – 58.

[17] Paul Hegarty, *Noise/Music: A History* (New York: Continuum, 2007), 3 – 5.

to racial and class groupings – became the antithesis in the self-identification of those who rejected noise.

The objectives of noise campaigns were therefore a reflection of an idealized version of the soundscape pegged to the sociocultural or political alignments of its advocates. What was regarded as productive or unnecessary noise underwent significant shifts between the late nineteenth century and the early twentieth century, and this depended on the perceived value and utility of machinery and industry to capitalist progress, or the woes of an increasingly unhealthy urbanization process. Progressive Era reformers adopted an entirely different and opposite attitude to noise from the antebellum northern elite decades ago.[18] Twentieth century noise abatement discourse from medical circles in London also reflected a concern with the unnecessary, unproductive, and unhealthy aspects of industrial noise, accompanied by urban concerns over congested bustle of the industrial parts of the city and a committed scientific inquiry towards medical and health effects of sounds on the human body and mind.[19] Victorian elites and intellectuals also mobilized to protect their professional identity from street musicians decades ago. Addressing the politics of Victorian street music, John M. Picker and Paul Simpson have pictured the vie for a quiet streets conducive to 'brain-workers' and literary intellectuals working in the home as an urban territorial campaign. Delving into earlier times, Emily Cockayne details the beginnings of a desire to control the sound environment to consolidate sleep, worship, and concentration exhibited in negative attitudes towards street peddlers and fiddlers in early modern English towns.[20] The heightened sensitivity to noise posed by others, felt by urban professionals

[18] Smith, *Sensory* History, 52 – 53.

[19] James G. Mansell, *Age of Noise in Britain: Hearing Modernity* (University of Illinois Press, 2017).

[20] John M. Picker, "The Soundproof Study," Picker, *Victorian Soundscapes*; Paul Simpson, "Sonic Affects and the Production of Space: "Music by Handle" and the Politics of Street Music in Victorian London," *Cultural Geographies* 24, no. 1 (2017): 89–109; Emily Cockayne, "Cacophony, or Vile Scrapers on Vile Instruments: Bad

and residents in closer living proximity to their urban neighbours and street traffic, was both socially and spatially constituted. In the colonial situation, especially, aurality was a cultural baggage travelling from Europe that *interacted* with the heard precolonial soundscape. The listening bodies of newly settling arrivals construed their ideal social spaces and living conditions in relation to the noisiness of that soundscape, either through rejection or physical removal of oneself, building relational identities in the process of responding to preferred and disliked sounds. For Asian music, theatrics, and festivities, whenever and wherever noise was produced usually involved a judgement of the sounds made to be foreign, discordant, lacking in musical qualities, and therefore unintelligible to European ears untrained to its harmonies or tunes. Descriptions across various localities of the middle to late nineteenth century are testament to this. One 1892 account described percussionary elements of Indian music as monotonous, distasteful to average European ears, and potentially wearisome for its tendency to persist till early morning hours, while another 1884 travel account documented encounters with unskilled musicians of Delhi, fanatical, hideous noises in Cairo, and a theatrical exhibition comprising tom-toms, whistles, gongs, bells, and fifes "with no attempt at time or harmony…the end and aim being apparently to make all the noise possible" at a temple in Kyoto.[21] In Canton, where music and large processions were the order of the day during new year celebrations, the "Chinaman's New Year" with its fire crackers, gongs, bells, and tom-toms "[drove] one crazy at all hours of the day and night – a never ceasing Bedlam"[22]. Asian musicality, being unrecognized, had thus acquired foreignness and were, to a

Music in Early Modern English Towns," *Urban History* 29, no. 1 (2002): 35 – 47; Cockayne, *Hubbub: Filth, Noise & Stench*, 106 – 130.

[21] James Mills Thoburn, *India and Malaysia* (New York: Hunt & Eaton, 1892), 69; Maturin Murray Ballou, *Due West, Or Round the World in Ten Months* (Boston: Houghton, Mifflin and Co., 1884), 69, 205, 275.

[22] George Francis Train, *An American Merchant in Europe, Asia and Australia: A Series of Letters from Java, Singapore, China, Bengal, Egypt, the Holy Land, the Crimea and its battle grounds, England, Melbourne, Sydney, etc., etc.* (New York: G. P. Putnam & Co., 1857): 150.

certain extent, being denied consideration on equal grounds with sounds associated with the European or the military.

The focus on urban relations and accompanying anxieties over identity, subjecthood, and colonial control also means zooming into the urban tradition referred to by Alain Corbin, of complaints of discomfort grounding the struggle of class(es) "intent on imposing their fastidious tastes and reducing noise to some sort of harmonious order, against 'rough music' charivaris, and rackets"[23]. Similarly, this thesis demonstrates that noise complaints in colonial Singapore were structured on European notions of musicality in the demands for the removal of noisy Asian music and activities that were out-of-place in residential neighbourhoods and interrupted the schedule of sleeping times. According to Schafer, for a certain sound to be made and to be heard without censure in any setting was to assign to it a certain status of acceptability or authority.[24] In Jacques Attali's renowned *Noise: A Political Economy of Music*, the authorization of various forms of music functioned to preserve social order as an extension of the prevailing political hierarchy. Music could be used as a tool of ritual power, representative power, or bureaucratic power. An orchestra conducted in the name of nobles and the monarchy was both an indicator and a display of power in times past across geographical and cultural contexts, while the censoring, silencing, or repressing of certain popular music and its performers, rites, or practices for their subversive elements were attempts to quell threats of violence and conflict, ensuring only the audibility of the dominant order and its sounds. Aptly put, music was and continues to be "simultaneously a threat

[23] Corbin, *Village Bells*, quoted in Smith, *Sensory History*, 49.

[24] As Schafer writes, "the association of Noise and power has never really been broken in the human imagination…descend[ing] from God, to the priest, to the industrialist… is a matter of having the authority to make it without censure. Wherever Noise is granted immunity from human intervention, there will be found a seat of power." Schafer, *The Soundscape*, 76.

and a necessary source of legitimacy"[25]. "All music, any organization of sounds is then a tool for the creation or consolidation of a community…It is what links a power center to its subjects…Therefore, any theory of power today must include a theory of the localization of noise and its endowment with form."[26] Attali's underlying message of music creating and binding community is also useful for studying the differentiating processes separating music genres on the basis of prestige or refinement, or how increasingly elitist vocabulary accompanying 'learned' or 'high-class' music alienated the same music from the masses. The continued noisiness or silencing of sounds, including musical ones, was a demonstration of the position occupied by the noise-maker or noise-silencer in the socio-political hierarchy.

Apart from unfamiliarity of sounds heard, there were also racial associations of noise with particular demographics, classes, and living conditions. I refer specifically to the association of noise with impressions of the overcrowdedness and squalor of designated Asian quarters in colonial cities and towns. The perception of this part of the town coming to life at night or being characterized as a never ceasing hotbed of activity accompanied the perception of irregularity that the non-European lived by, which influenced or contributed to the perception that ordinary or religious performances of music and sounds could occur at ill-timed periods, on the whim and free will of those who wished to conduct these performances, and proceed uninterrupted what was to the European resident or bystander without a known end, for example, the Chinese New Year festivities and certain Hindu festivals. Thus, the growing sentiment emerged in the 1870s that a semblance of regulation and governance was urgently needed in the colony to keep this unrestrained freedom in check. On top of the need for a precedent to be set for the colonial law in

[25] Jacques Attali, *Noise: The Political Economy of Music*, trans. Brian Massumi (London: University of Minnesota Press, 1985) 14.

[26] Attali, *Noise*, 6.

the Straits Settlements, these appeals for colonial intervention on behalf of the European resident population came to reflect a characteristic anxiety about living spaces, racial encroachment, and colonial identity. Building on these demands for heavier regulation in both official and non-official discourse, racially influenced dialogues persisted in the belief that the un-musical and noise-loving nature of the Asian figure was ignorant of the noise that they made, which made it impossible or inappropriate for them to be involved in decisions made about the production of sound, or at least lessened the credibility for inclusion, and therefore the initiative belonged to colonial or European authorities. Essentialist assumptions of the non-European, being "born in noise, live in noise, die in noise, and cannot realize that noise is unpleasant to anybody"[27], was a pervasive discursive stereotype in colonial Singapore. Together with the ideas of cultural superiority of the European and British Empire's right and obligation to rule subject populations, the perceived obliviousness of the non-European subject to the disturbances of their music reinforced their need to be governed with the firm hand of the law. Demands for quieter neighbourhoods and streets devoid of unruly Asian music thus demonstrates music as a threat of noise and silencing it as an act of political legitimacy and authority.

[27] Odile Goerg, "From Hill Station (Freetown) to Downtown Conakry (First Ward): Comparing French and British Approaches to Segregation in Colonial Cities at the Beginning of the Twentieth Century," *Canadian Journal of African Studies* 32, no. 1 (1998): 11.

1.2 Sounds and Soundscapes in Singapore

The analysis of the sociocultural and legal dimensions of noise provides an addition to some of the renowned canons of Singapore social history, including that of municipal control, prostitute and rickshaw puller regulations, and more recent research on British colonization's legal ramifications on gambling and same-sex activity.[28] Lee Tong Soon's 1999 article demonstrates how new ways of listening and spatial organization of the Malay-Muslim community resulted from the reduction in loudspeaker broadcast and miniaturization of the call to prayer on radio technology in the post-independence government's pro-secularization and multi-ethnic policies.[29] Lily Kong shows how pop and rock music in the same post-independence period were imbibed with moral meaning at the national, local, and individual levels in a specific moral geography engineered through discursive and legislative action that conflated with the construction of desired Singaporean identities. Referring to nightclubs and other civic spaces, Kong shows that the crackdowns on, reclamations and appropriation of these music genres from the 1970s to the mid-2000s illustrates shifting moral boundaries heavily dependent on siting where music resided.[30] More recently, Jim Sykes and Jenny McCallum have contributed works to the historicization of negotiated sound in Singapore's public spaces. Sykes' historically-informed examination of the tensions involved between postcolonial governmentality of public festivities and "enchanted sounds" in the carrying out of Hindu Thaipusam processions with McCallum's study of conflicts and compromises involved in the nineteenth century regulation of processions are the results of an aurally-attuned

[28] J. Y. Chua, "The Strange Career of Gross Indecency: Race, Sex, and Law in Colonial Singapore," *Law and History Review* (2019): 1 – 37.

[29] Lee Tong Soon, "Technology and the Production of Islamic Space: The Call to Prayer in Singapore," *Ethnomusicology* 43, no. 1 (1999): 86 – 100.

[30] Lily Kong, "Music and moral geographies: Constructions of 'nation' and identity in Singapore," *GeoJournal* 65 (2006): 103 – 111.

inquiry into the nature of public spaces produced from the interactions between social groups and prevailing governmentality.[31]

The Singapore soundscape in the colonial period comprised multiple, overlapping auditory or sonic environments, including signalling systems, cultural or religious organizations of sound, and natural sounds. Church bells, town hall clock chimes, fire alarms, blasts from the time gun intermingling with the sounds of human and vehicular traffic, and festive and ritual music, although making up the total, was heard in very particular ways. Based on the adopted "sonic ideology"[32] of the individual, some sounds receded into the background while others were foregrounded as noise. As table 1 shows, a brief survey of noise complaints published in the local press reveals various noise hotspots and different patterns of their occurrence. The sound of drums or tom-toms were most frequently complained of. Complaints of drum-beating emerge from a stormy history of colonial restriction. As I show in the next chapter, the tom-tom, among other percussion instruments, was singled out for restriction in the inherited Indian Penal Code and subsequent revisions of the Straits Settlements' own laws.

In particular instances, appreciation for the tom-tom was shown in particular settings. For instance, T. J. Keaughran painted this tranquil depiction of the instrument in *A Tour on the Malayan Peninsula*:

> *[Datu Laur] stays here for the night, and after dinner the young men of his party who have a turn for music assemble in the balai with fiddles and an accordion, and discourse a selection of Malayan airs to the accompaniment of a number of voices and a booming*

[31] Jim Sykes, "Sound Studies, Religion and Urban Space: Tamil Music and the Ethical Life in Singapore," *Ethnomusicology Forum* 24, no. 3 (2015): 380 – 413, Jenny McCallum, "Conflict and compromise over processional sound in 19th-century Singapore," *Indonesia and the Malay World* 45, no. 133 (2017): 315 – 333.

[32] Sykes, "Sound Studies, Religion and Urban Space," 386.

> *tom-tom. The music is borne away on the soft night air and is re-echoed in the distance among the hills. I have often before heard Malay music and groaned under the din created by the thumping notes of the tom-tom, but I find that it is a music that can only be fairly appreciated in the wild solitude of its native woods, where the scenes around are in keeping with the wild chant of its melody.*[33]

In Keaughran's mind, Malay music was being produced in its natural and untamed "wild solitude" within the setting of the 'native woods' far removed from urban settings, which softened the element of annoyance it usually caused. This was a sound belonging to the pastoral, of indisputable belonging in a rural environment but ill-fitted in the colonial urban one. Other times, the sounds of drumming were produced and heard within the colonized theatre, albeit suggesting that this was a sound that 'belonged' only in a specialized, demarcated ethnic space. Visits to the Chinese quarters in Singapore were often accompanied by descriptions of wayang performances where the "great feature of the evening [was] the noise...The tomtom, the drum, and the chopsticks are made to deafen…"[34], sounds that were "pleasing for all save the unfortunate European, whose ear attuned to softer notes and less barbaric melodies, refuses to rest content whilst the clashing din re-echoes through all the waking hours, and the once silent watches of the night."[35]

The pastoral image cast of the tom-tom, however, lay in contrast to mostly negative impressions of its sound that were borne in the city. Often thought of as instruments of torture that contributed to nervous afflictions, one commentator from the British Broadcasting Company's *World Radio* journal had labelled the instrument as "one of the original loudspeakers of the

[33] T. J. Keaughran, "A Tour of the Malayan Peninsula, XV," *ST Weekly Issue*, 19 December 1887, 7.

[34] Ethel Gwendoline Moffatt Vincent, *Forty Miles Over Land and Water: The Journal of a Tour Through the British Empire and America* (London: Sampson Low, Marston, Searle & Rivington, 1886): 239.

[35] Mayo, "The Roasdside Gaff," *SFP*, 9 January 1908.

world"[36]. As pointed out in a *Straits Times* by journalist and editor of the *Singapore Free Press* (*SFP*) Walter Makepeace, rhythm "by itself is sometimes sleep-dispelling; witness the horrors of a night when the Kling in the next compound had borrowed a tom-tom and spends the night tuning it."[37] Two *Straits Times* issues from 1846 contain accounts of the sounds of dancing and tom-tom beating from night till dawn in the precincts of the convict lines to the disturbance of nearby residents.[38] In 1899, a correspondent by the name of Juggernaut living in the vicinity of Sophia Hill contributed the following poetic submission to the *Free Press*:

There's the Aryan with his blowpipes,

there's the Chinese fiddle's squeak,

While the everlasting tom-tom bids your

angry passions speak

...

There's the squeaking Chinese fiddle,

there's the thing the Aryan plays,

There's the tom-tom tumming slowly

through the most pernicious lays...[39]

Using the description of different sounds, Juggernaut had meant to draw attention to the crowded soundscape around Sophia Hill in 1899. Dividing the heard sounds into music meant to please and

[36] "Local Restrictions. Opinion of B. B. C. Official Journal," *Malaya Tribune*, 14 April 1934, 19.

[37] W. M., "Music as Medicine," *SFP*, 1 May 1908.

[38] "Convicts – and Convict Labour," *ST*, 25 April 1846, 2; "Untitled," *ST*, 18 March 1846, 2.

[39] Juggernaut, "Music (?)," *SFP*, 5 & 10 August 1899.

music meant to rile"[40], the sounds of the individual musicians, tom-toms, and Chinese instruments had been assigned to the latter category, in contrast to the philharmonic symphonies and classical concerts that were a blessing to the ears, musically-speaking.

Conflicts over sounding practices, according to Jenny McCallum, were shaped by the social and spatial organization of British settlement in Singapore.[41] Between the 1860s to 1870s, predominantly European enclaves had been formed in the Claymore, Tanglin, and lower Bukit Timah districts (marked district D in Fig. 1), with unprecedented levels of population increase in the town centre causing the retreat inland from the original reserve along Beach Road.[42] The turn of the century saw further expansions of Singapore, with further development of Katong and Siglap coconut plantations into residential districts due to increasing Asian population and lack of available land in wealthy and middle-class residential areas of Bukit Timah, Tanglin, and Claymore.[43] A considerable number of wealthy Chinese families and those of other ethnicities had begun moving into the "essentially European preserve" of Tanglin by the 1880s, as wealthy merchants and business owners of Chinese and other non-European descent began moving into and owning the large number of new houses built.[44] Straits Chinese families were also gradually moving out from overcrowded central areas of Telok Ayer, Tanjong Pagar, Neil Road and Duxton Hill from the late 1890s into terraced houses at the middle-class reserves of River Valley Road,

[40] Juggernaut, "Music (?)," *SFP*, 5 & 10 August 1899.

[41] McCallum, "Conflict and compromise," 316.

[42] The population of Singapore doubled in size from 35 389 in 1840 to 81 734 in 1860. Population density increase was the largest in the Chinese and Malay districts of Chinatown and Kampong Glam. Lee Kip Lin, *The Singapore House 1819 – 1942* (Singapore: Times Editions, 1988), 25, 53; Brenda Yeoh, *Contesting Space in Colonial Singapore: Power Relations and the Urban Built Environment* (Singapore: NUS Press, 2018), 45.

[43] Lee, *The Singapore House*, 55, 119, 222.

[44] Norman Edwards, *The Singapore House and Residential Life, 1819 – 1939* (Singapore: Talisman Publishing Pte Ltd, 2017), 54 – 55, 58 – 61.

Kim Yam Road, Mohamed Sultan Road, Tong Watt Road, and Emerald Hill Road, Cuppage Road and Koek Road [45] The 'recognizable separation' between the suburban bungalow-type residence of European communities and colonial officials, and the cramped and densely-packed mixed-use Asian districts emerged as a common thread in descriptions of Singapore. Observer accounts of the differences between the two would often make use of noise and sound, apart from comparisons of the physical crowd, to differentiate between the quiet, secluded, and quaint residential suburb from the hustle and bustle of the Asian district that never sleeps, or comes to life at sundown till the small hours of the morning.[46] Majority of Asian immigrants lived in shared quarters in shophouses and godowns in the Chinese and Chuliah kampongs, while many European men, including bachelors, lived in offices or shared houses in the Beach Road area and later in Tanglin.[47]

Unlike other colonial cities, the administration in Singapore was cautious against enacting any "overt form of residential segregation for fear that it might alienate Chinese capital crucial to the production of the urban built environment"[48]. "Although there was a definite pattern in the attraction of different areas to particular ethnic groups, there was now also considerable intermingling*"*[49] and the emergence of a more heterogeneous residential demographic in certain districts at the turn of the century. The cohabitation in the same neighbourhood meant that conflicts could arise from collective differences in schedule, activity, and cultural norms. As Table 1 shows,

[45] Lee, *The Singapore House*, 53.

[46] James Warren, *Rickshaw Coolie: A People's History of Singapore, 1880 – 1940* (Singapore: NUS Press, 2018), 185 – 186.

[47] Lee, *The Singapore House*, 23.

[48] "It will probably be said that Orchard Road, out from Tanglin Kechil is a residential quarter for Europeans, and ought to be kept as such…[but]…[w]e have to look at what effect it would have on the general prosperity of the place…[I]t would create a feeling of insecurity in property and the persons, Chinese and others, who had brought money into the place, in order to invest it in land, would feel that security which they always felt before, had gone, and they would never have the same inducement to buy property." Walter Napier, *Proceedings of the Legislative Council of the Straits Settlements*, 6 March 1903, B10, op. cit. Yeoh, *Contesting Space*, 38 – 40.

[49] Edwards, *The Singapore House and Residential Life*, 53.

noise complaints in residential areas in Singapore stemmed from night disturbances and music typically considered "non-European". As the excerpts at the beginning of the chapter suggest, more than a simple dispute over ill-timed activities, living in the vicinity of Asian households within earshot of music and adjusting to the noisy Singapore environs presented an immediate, unbearable and non-recuperative discomfort couched in racial tones. Anxieties about threats to European enclaves also flared up with concerns about housing shortages emerging as an urgent problem around the early decades of the twentieth century. The housing shortage problem was presented as one of Asian encroachment that was pushing the fringes of European residence outwards of the town. Articulation of the problem in racial terms, following Charles Hirschmann's observations, was a product of circumstance of the colonial experience, wherein inter-ethnic relations were transformed into and increasingly cast in terms of "racial relations" due to deepening institutionalization of European racist attitudes and beliefs in colonial dominance.[50] It is unsurprising then that conflicts or grievances over issues of noise were painted in similar discursive terms. More specifically, the discomfort caused by unbearable noise added onto existing grievances in shared neighbourhoods. The perception that the colonial administration was slow or inadequate in their responses to unresolved noise matters further exacerbated the anguish of suffering European residents.

[50] Charles Hirschman, "The Making of Race in Colonial Malaya: Political Economy and Racial Ideology," *Sociological Forum* 1, no. 2 (1986): 332, 339 – 347.

Figure 1 and 1: Outline of districts in the Singapore municipality, 1881 (top) and 1891 (bottom).[51] *The Singapore town initially planned for by Stamford Raffles consisted of segregated ethnic enclaves, or 'kampongs', for the Chinese, Chuliahs, Arabs, Bugis, and Europeans, corresponding to districts A and C on the south bank of the Singapore River, and districts E and G on the north bank*

[51] S. Dunlop, *Report on the Census of Singapore, 1881* (Singapore: Government Printing Office, 1881); "Map No. I, Map of the Municipal Limits, Singapore, showing census divisions – 1891" in E. M. Merewether, Esq., *Report on the census of the Straits Settlements, taken on the 5th April 1891* (Singapore: Government Printing Office, 1892).

Month/Year	District affected	Nature of noise	Alleged time of day	Alleged duration
Apr-1846	Convict lines near Stamford Road	Kling convicts	Night till dawn	"kept up till dawn of day"
Nov-1849	Campong Bencoolen	Tom-toms, drums, and native music	Day	Whole of Sunday
May-1869	Orchard and Killiney neighbourhood	Dog nuisance	Night	"Night after night"
Aug-1893	Sophia Road	Piano practice	Day and night	Throughout the day till after midnight
Aug-1897	Hill Street	Noise from Soldier's & Sailor's Home	Night to early morning	Late night till 1 a.m.
Jan-1896	Scott's Road, Campong Java, Bukit Timah Road	Chinese clubs and wayang performances	Afternoon/daytime through next morning	Sunday till Monday gunfire, 2 or 3 times per week
Feb-1896	Serangoon	Music from Hindu temple	Night	
May-1896	Campong Bahru	Malay dance music with drumbeating	Night to early morning	Until 2 a.m.
1898	Selegie, Wilkie	Music from gong and drum beating	Night	Few months, sometimes lasting after 3 a.m.
May-1908	Gaylang Road	Nightly beating of tom-toms	Night	"Frequently"
Apr-July-1909	Vicinity of Memorial Hall	"clock nuisance", hourly bell	Night	Nightly
1911/12	Tanjong Katong	Gongs, tom-toms, cymbals from a Chinese band for private celebration	Afternoon	Sunday afternoon till 8 p.m.

Table 1: Newspaper survey of noise complaints by locality, character, and time of day till early twentieth century [52]

[52] Compiled from "Convicts – and Convict Labour," *ST*, 25 April 1846, 2; "Untitled," *ST*, 18 March 1846, 2; "Reporter Correspondence", *SFP*, 23 November 1849, 2; An Observer, "Correspondence," *ST Overland Journal*, 20 May 1869, 6; A Sufferer, "The Piano Nuisance and the Diminished Revenue," *ST Weekly Issue*, 15 August 1893, 10; Insomnia, "Correspondence," *Mid-day Herald*, 3 August 1897, 3; "The Charms of Music – Malays Disturb Europeans' Sleep," *SFP*, 29 May 1908, 3; "Sweet Chiming Bells," *SFP*, 23 July 1909, 4; "The Tanjong Katong Case," *SFP*, 4 April 1912.

In George Balandier's theorizing of the colonial contact zone, the character of the 'colonial situation' posed problems for the colonized populations as well as for the administration itself. Comprising a dominant group occupying a numerical minority against the coloured immigrant subjects and the colonized population – collectively referred to as the natives, there existed a fundamentally antagonistic character of the relationship between these different cultures resulting from the subservient role to which the colonized are subjected to as instruments of colonial power.[53] This contributed to "…a policy of domination and prestige demand[ing] that it be closed and aloof, a situation that does not facilitate mutual understanding and appreciation, a situation that allows (or encourages) the easy recourse to 'stereotypes'"[54]. These were stereotypes that fed into the invention or creation of problems that needed to be ameliorated or solved completely, that also fed into the anxieties that contributed to the urgency of demands for legislative action. I position Edward Said's rhetoric of otherness within this antagonistic colonial situation of Singapore, adopting the view that members of the 'Orient' were "rarely seen or looked at; they were seen through, analysed not as citizens, or even people, but as problems to be solved or confined"[55] in colonial mentalities. Thus, Orientals or non-Europeans were perceived as problems to be solved within the logic of "colonialism's capacity in a strong sense to create that which it claimed to find in colonised societies"[56] using a combination of force and pseudo-justifications.[57] King's observes that the "problems of any society are problems only to the people who perceive

[53] George Balandier, "The Colonial Situation: A Theoretical Approach," in *The New Imperial Histories Reader,* ed. Stephen Howe (New York: Routledge, 2010): 36.

[54] Ibid., 33.

[55] Edward Said, *Orientalism* (New York: Pantheon Books, 1978), 207.

[56] Analysing the relations of power and knowledge in of colonialism does not only entail an emphasis on "the centrality, power and purposefulness of colonial discourses [or ideologies]", but ought to include a discussion of the self-referential, self-invented constructiveness of colonial epistemology. Stephen Howe, "Introduction: New Imperial Histories," in *The New Imperial Histories Reader,* ed. Stephen Howe (New York: Routledge, 2010): 7.

[57] George Balandier, "The Colonial Situation," 36.

them as such." The concerns, priorities, and interests of the European population in Singapore that hinged upon preferred kinds of visual and aural experience were themselves borne of culture-specific concepts of, for instance, noise – a state of judgement overlaying the perception of sound, as I have earlier shown. Thus, the "identification of such problems…based on prevailing values and ideologies and the priorities which a society decides"[58] were by no means the defining problems of the entire population under colonial rule, but rather a specific one tied to a general European mentality and sonic ideology.

[58] Anthony D. King, *Colonial Urban Development: Culture, Social Power and Environment* (New York: Routledge, 2007), xiv.

1.3 Noise, Nuisance, Neighbour: Methodology and Approach to the Study of Noise

The thesis' central concern of how neighbourhood and legislative definitions of street and theatrical Asian music shaped the discourse of noise in European sonic ideology stems from three research queries: How was the noise complained of and why did the sounds of Asian music present a problem, a threat, or an impending crisis to the complainants? To what extent were the grievances of complaining European residents reflected in and accommodated by colonial legislation? How did the character and spatiality of the offending noise influence its scope of redress in the colonial space?

Examining the tenets of 'nuisance', I suggest, are useful for spotting parallels and continuities in noise discourses involving official and non-official circles. For municipal and legislative authorities in Singapore, 'nuisance' was a category for regulation, control, and codification in a region in its nascent colonial law-making stage. The developing dimensions of private and public nuisances allow historians to explore the adaptation and appropriation of English law in the colonial scene, which include similar principles being defined and applied differently when filtered through very different, racially-guided concerns of the colonial administration. 'Nuisance' for authorities, compared to localized neighbourhood complaints, were a broader categorical tool used in the generalized targeting of specific activities and culprits believed to be causing unrestrained and unreasonable amounts of noise. At the same time, residential articulations of nuisance served as avenues of complaint for residents seeking resolution to localized problems in the neighbourhood. Noise nuisance was a localized reference to neighbour noises that was not solely racially contoured but also by spatialized. For the wealthier classes of European or Chinese residing in suburban neighbourhoods lying outside of the congested town centre, noise nuisances were a specific menace to suburban living conditions and expected comfort

levels, interrupted nightly sleeping schedules, and was therefore out-of-place in the neighbourhood character. Residents invoking British law as the authority on the problem of nuisance in the local press reiterated the colonial right and obligation to rule and the British administration's duty to the "imperial class" of people to keep colonized populations in check. Order, in this sense, was achieved by ensuring an abidance to the law, legal procedures, and institutions. Conversely, unregulated activities or a disobedience to existing laws signalled a disregard for the colonial apparatus and excessive Asian liberty. 'Nuisance' thus emerges as an appropriate and convenient byword to refer to that category of problems suffered by the European community, and a category of analysis in legislation to make certain activities legible and therefore restricted or prohibitable.

The focus on broader official discourse, I argue, can convey an inflated narrative boasting of magnified success. Concentrating on the various noise abatement campaigns and efforts might, for one, portray the silencing of noise as an eventuality, surely an inevitable outcome of legislative developments preoccupied with the regulation of the soundscape. In the area of legislation, especially one that was undergoing rapid consolidation and revision to meet the demands in a legal *terra incognita*, legislative rhetoric may contain inflated claims of efficacy against the backdrop of untested legal applications. As Brenda Yeoh points out, it is imperative for colonial decisions to be studied on both the theoretical and applied level.[59] Thus, the main contribution of the thesis comes from its examination of the challenges to colonial law's totalizing effects on society, revealing the obscurities contained in legal wording, the limits of appeal to and enforcement of certain regulations, and the nuanced hegemony of administrative power and European privilege. This contribution attempts to shed more light on the instrumentality of law in colonial spaces through the category of nuisance, in the municipal, residential, and legislative aspects. I argue that

[59] Yeoh, *Contesting Space*, 13 – 15.

official discourse on music regulation belies a less successful truth of the challenging of certain laws and colonial rights. Simultaneously, legislative discourse set in rigid provisional terms can also obscure a more flexible side to the administration of law involving precarious balancing acts between restriction and liberty.

A basic timeline of legislation begins with the revision of police laws in the 1870s to better accommodate public and private Asian music into the written law. Later in 1895, a new Theatres Ordinance was also enacted to the effect of giving the police a greater control over the state of Asian theatres on public streets. Other consolidated laws like the 1871 Straits Settlements Penal Code, the 1872 Summary Criminal Jurisdiction Ordinance providing for the conviction of street offences and 1887 Municipal Ordinance were implementations of colonial legislation that gradually shaped the character of nuisance before 1900. The resulting sanitization of Asian street music, so to speak, was the direct result of these newly enacted measures for greater control and jurisdiction of the public space consisting of public thoroughfares and streets. Against this backdrop of legislative developments, the noise nuisance discourse of the 1890s and subsequent legal cases provides a commentary on the applications and the (un)realized efficacy of these laws. I argue that the discourse and discussions in this period provides an essential optics into the mechanics of 1870s to 1890s legislation producing disciplined and penalizable categories, by providing a viewpoint of the impact of music regulation on public streets and the suburban neighbourhood. As chapters 3 and 4 demonstrate, neighbourhood or private nuisance was not holistically addressed in existing legislation, a caveat that newspapers were quick to point out. Domestic noise complaints, I suggest, deliver key insights into and point us to significant moments in the law's reach into domestic affairs.

The focus on domestic complaints of noise also showcases the potential for private nuisance to be treated as trivial and petty, and for claims of nuisance to backfire on complainants themselves, because of the caveat of proving it as an actionable nuisance in the judicial court. This caveat lay in the internal differentiation of public and private in the definition of nuisance. This was not merely spatially differentiated, but also hinged upon the assessment of its impact. Both determinations of space and impact affected the actionability of nuisance, and together with the mechanisms of legal procedure – which necessitated a written show of unity for neighbourhood disturbances, and the inevitable administrative bureaucratic delays present in the appeal process, private nuisances involving noise complaints were in a particularly different state than public nuisances involving noise and unlicensed musical activity. As Steven Pierce and Anupama Rao point out, crime, its detection and deterrence are valuable optics for understanding the fashioning of colonial identities. Law and discourses of crime and punishment "enact and archive the colonial logic of ruling through the stigmatization of the 'cultural'…by maintaining it as a reserve of native otherness not fully comprehended by judicial languages of motive and intention"[60]. Apart from insights into identity formation, the law's production of criminality must also be concurrently investigated with its inherent tensions and contradictions. Writing against the narrative fixture of a colonial state intent on suppressing all crime and imposing order, Jonathan Saha uses the British administration's complicity and ambivalence in Burmese gambling laws to demonstrate that colonial administrators "did more than simply attempt to define and suppress crime."[61] Apart from evidence of the symbiotic relationship shared between officials and offenders, Saha also suggests

[60] Steven Pierce and Anupama Rao, "Discipline and the Other Body: Correction, Corporeality and Colonial Rule," *Interventions* 3, no. 2 (2001): 160.

[61] Jonathan Saha, "Colonization, Criminalization and Complicity: Policing Gambling in Burma c. 1880-1920," *South East Asia Research* 21, no. 4 (2013): 657.

that the law was designed to criminalize Burmese gambling while absolving British gambling from the same sort of penalization.[62] In his second work on the law and disorder in the colonial state, Saha also notes that a tolerance of disorder was crucial to the viability of colonial law itself.[63] The tolerance of transgressions and balancing of colonized and colonizer criminality – or, concerns with the risk of penalizing the colonial class – suggests that the legal coding of criminality was borne out of a measured attitude of lawmakers. Similarly, in his work on gambling laws and gaming houses in Singapore between 1880s to 1950s, Lee Kah-Wee's analysis of the spatiality of the illegal gaming house in, for instance the 1888 Common Gaming Houses Ordinance, demonstrates the motivations of such laws to excuse some while criminalizing others in colonial Singapore, while Elizabeth Kolsky argues that the codification and development of English law in India comprised provisions for rule over native inhabitants as well as to contain the unruly face of white violence.[64] The unequal terms in the devising and application of law delivers some counterevidence for the claimed universality that legal forms purportedly uphold.

Tensions between the intentions of legislation and the practicalities of judicial application are another consideration of law's practice. In the colonial distinction between a 'colonial public' and 'native private', the private and domestic sphere was increasingly designated as a space of non-interference.[65] Radhika Singha suggests that colonial intervention in the judicial arena was limited by the administration's concern with conserving police and judicial agencies for its own

[62] Saha, "Colonization, Criminalization and Complicity," (2013): 661.

[63] Jonathan Saha, *Law, Disorder and the Colonial State: Corruption in Burma c. 1900* (Palgrave Macmillan, 2013): 5.

[64] Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (New York: Cambridge University Press, 2010).

[65] Mithi Mukherjee, "Justice, War, and the Imperium: India and Britain in Edmund Burke's Prosecutorial Speeches in the Impeachment Trial of Warren Hastings," *Law and History Review* 23, no. 3 (2005): 659 – 660.

priorities of rule. Reserving the criminal courts for more serious crimes and sealing it off from domestic matters resulted in the dismissal of such charges as trivial, unfounded, misrepresented, or exaggerated.[66] Although the enforcement and demands of both the right and obligation to rule influenced legislative objectives, legal provisions and its subsequent revisions, the thesis argues that the development of colonial laws also reflected a cautious approach towards restricting Asian musical activity, as members of the Legco did not want to be seen as encroaching on or over-restricting Asian liberties. Discussion of the provisions of said laws had as much to do with balancing acts between liberties of Asian and European populations, as well as that between Asian liberty and colonial licence. According to the first Chief Justice of the Straits Settlements Sir Peter Benson Maxwell, the laws of the colony were subject "in its application to the various alien races established here, to such modifications as are necessary to prevent it from operating unjustly and oppressively on them."[67] Such considerations aside, contradictions of the will-to-criminalize in practice and "the ambiguities of juridical reason" [68] present in cumulative contradictions and multiple definitions of spatial terms like the 'public place', as Lee demonstrates, may have contributed to the clumsy and vexing practice of law. As Jim Sykes argues, determining the audible threshold of noise in noise regulations and laws depended on discoveries of its "newfound illegality" in times and places where it posed a threat to order or neighbourhood norms.[69] New discoveries about the threshold, "where music becomes noise, which was simultaneously a

[66] Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Oxford University Press, 2000), 123 – 124.

[67] Roland Braddell, *The Law of the Straits Settlements: A Commentary* (Kuala Lumpur: Oxford University Press, 1982), 73.

[68] Lee Kah-Wee, *Las Vegas In Singapore: Violence, Progress and the Crisis of Nationalist Modernity* (Singapore: National University of Singapore Press, 2019), 81.

[69] Jim Sykes, "Sound as Promise and Threat: Drumming, Collective Violence and Colonial Law in British Ceylon," in *Cultural Histories of Noise, Sound and Listening in Europe, 1300-1918*, ed. Kirsten Gibson and Ian Biddle (New York: Routledge, 2016), 136.

transition from legal to illegal behaviour"[70], was presented by the neighbourhood noise nuisance discourse, where for example the wayang was an unwanted musical practice in the neighbourhood at night and on Sundays.[71] Yet, the lack of legal precedents and lodging of reports was taken as noise's verifiable absence and, in some instances, was an obstacle to the classing of the noise as an actionable nuisance in the local courts.

Inquiring into the significance of sound in the instrumentality of law employed in the colonial situation, this thesis argues that the hearing of certain sounds in a particular way – as menacing, annoying, disruptive, and even life-threatening – reflected the attitudes of residents and lawmakers. On a deeper level, the process and discursive frameworks in which these sounds were embodied in the mentalities of the European population, then emerging in legislative discussions, while continuously recurring in the form of residential complaints with a recurring racial and geographical trait reveal a concern with the erosion of colonial authority and interference with the hospitability of living in Singapore according to western standards. The "crisis of habitability"[72] was a sense of racial crisis that grew in intensity with the continued half-successes in the suppression and muting of agonizing noise by the colonial government. It follows that Harald Fischer-Tine's call for historians of the colonial situation to pay attention and to acknowledge role of negative affects such as paranoia, panic, and anxiety in colonial experience is useful to this study. For a numerically inferior resident population living and acclimatizing to a foreign environment removed from familiar experiences, an emotional state of vulnerability and the persistence of insecurity stemmed from the looming physical threat of mutiny and native violence,

[70] "Yet the whereabouts, volume and time that determined this threshold could only *really* be determined *after* noise had already become audible and visible as a 'disturbance'…" Sykes, "Sound as Promise and Threat," 136.

[71] Samuel Llano, *Discordant Notes*

[72] Yeoh, *Contesting Space*, 137.

as well as other more insidious dangers like disease, corruption, and nervous breakdown was a lingering cause for anxiety, signalling the always-present potential loss of control.[73]

The three body chapters of the thesis proceeds chronologically and assesses noise discourses in its legislative, residential, and judicial forms. Chapter 2 shows how certain musical activities were cast as public nuisances to the general flow of traffic, or that affronting the senses of the European population who witnessed street processions employing "hideous music", and how that very same language of being or causing nuisance accompanied by similar sentiments carried over to legislative debates in the early 1870s. Using the minutes and reports of Legco meetings, I infer that the attitudes accompanying the criminalizing zeal of the legislative administration paralleled those contained in the local press. These new legal provisions defining the bounds of legal and illegal musical activities, including exceeding the time limits of music or theatrical permits, or playing music without a license in public spaces, suggest a turning point that resulted in a greater scrutiny of and action on unlicensed musical activity in both private and public spaces. Switching to conversations on neighbourhood noise, the examination of newspaper complaints containing charged descriptions of the negative effects of wayang music in chapter 3 demonstrates nuisance caused by noise had very real impacts on the quality of life where the necessity of restful sleep at night was concerned, as well as that of the perceived right or entitlement to the quiet privacy of the neighbourhood. Following this perception, the disturbance of nightly sleep or neighbourhood quiet was viewed as a threat to residential rights. These aspects of suburban expectations were intertwined with issues of racial, classist, and colonial identities, as

[73] Harald Fischer-Tiné and Christine Whyte, "Introduction: Empires and Emotions," in *Anxieties, Fear and Panic in Colonial Settings: Empires on the Verge of a Nervous Breakdown*, ed. Harald Fischer-Tiné (Cham: Palgrave Macmillan, 2016), 1 – 23; Rajesh Rai, "The 1857 Panic and the Fabrication of an Indian 'Menace' in Singapore," *Modern Asian Studies* 47, no. 2 (2013): 365 – 405.

the invoking of colonial authority, law, and order expressed in relevant complaints directed to administrative bodies might indicate. These same pleas and appeals to relevant regulations would also appear to contain striking similarities in the gradual generalization of noise-loving and noise-causing Asian communities and activities, which were already reflected in the "non-European" categorization in legislation. At the same time, speculations might be made of the extents that legislation came to reflect a particular racial or class community's concerns and of how developments in laws effectively addressed their grievances. As much as complaints of noise nuisances reflected certain racialized or repeated themes, casting sound as noise and an actionable offence could only receive legitimate intervention in a narrow sense. Through the analysis of significant legal cases in chapter 4, I attempt to show that the occurrence of noise had to be proven unnecessary or unreasonable in any number of often subjective measurements including volume, timing, location, or type of sound in order to be regarded as an actionable offence to be penalized or prohibited. As chapter 3 and 4 will demonstrate, the emerging awareness of a legislative system ill-equipped to address private complaints of noise and the wide perception of the omissions of licensing was a defining state of noise abatement in pre-war Singapore.

Chapter Two: Music, Legislated

The sounding of drums, horns, and metal percussion instruments without official approvable had been punishable with the enactment of the 1856 Indian Police Act. In turn, outlawing the use of these instruments was part of making their musicality illegal in the heard public spaces. The vilification of percussion sounds in LegCo discussions continues the trend of marginalizing and penalizing these sounds associated with the native, the religious, and the oriental. The tropes and themes involved in these processes of sonic sanitation, manifested in public English-language discourse and codified into legislation, are of significance in the examination of European aurality in colonial society and the role that that aurality played in colonial governance and regulation of the soundscape. Apart from this continuity, an increasingly differentiated spatial vocabulary was emerging in these legislative changes.

2.1 Noisy, Unsightly, and Dangerous: Impressions of Native Processions

"For some days past, the town has been resounding with the clangour of Chinese gongs, and the streets crowded with processions of this noisy race."[74]

According to Jenny McCallum, the 'noisy native' was an aurally-informed construct stemming from "an exercise in selective hearing whereby familiar sounds were filtered out while sounds of the 'other' – particularly a threatening one – registered negatively in European ears."[75] The numerical minority occupied by the Europeans in colonial Singapore against the majority of foreign immigrant and native populations made the threat of riot and revolt a very real one, and in this regard, ideological assumptions of race associated with certain sounds in the environment became tied to the natural instinct to that associated fear and paranoia with loud human-made sounds.[76] Noisy and rowdy assemblies as a symbol of disorder upset the ideals of an engineered calm and order of empire that the administration sought to maintain and that European residents sought for. Indeed, the language of fear in anecdotal and official commentaries on public processions demonstrate that "sound [played] a significant role in the assertion of, or challenges to, hegemonic political power"[77]. "From the perspective of the colonial authorities, the sacred musics of the natives became 'noises' when they appeared to threaten public order; in such cases,

[74] Charles Burton Buckley, *An Anecdotal History of Old Times in Singapore*, vol. 1 (Singapore: Fraser & Neave, Limited, 1902), 345. For commentary on Chinese New Year cracker firing, that it ought to be prohibited, or at least restricted to particular hours and places in a manner that remained respectful of native customs, see 313.

[75] McCallum, "Conflict and compromise," 319.

[76] Keeping in line with the criticality employed in colonial discourse analysis, it should be noted that the usage of 'riot' or 'rebellion' in colonial settings or outside of Europe should be treated as a loaded-term that reflects a particular European mentality and perception of events chronicling a period of tumult, or native or Asian revolt against colonial military, administrative, or penal structures. See Veena Das (ed.), *Mirrors of Violence: Communities, Riots and Survivors in South Asia* (Delhi: Oxford University Press, 1990), and Rai, "The 1857 Panic," 365 – 405.

[77] Ian Biddle and Kirsten Gibson, "Sound Politics – Introduction," in *Cultural Histories of Noise, Sound and Listening in Europe, 1300-1918*, ed. Kirsten Gibson and Ian Biddle (London: Routledge, 2016), 107.

they had to be restrained for the public good."[78] Accounts of native or Asian processions contained frequent commentaries on the element of danger that processions posed to human life and street traffic. The great noise and physical obstruction of processions, often accompanied with descriptions of being heathenish, or "unchristian and inhuman"[79], following an 1844 account, was believed to contribute to serious accidents. Loudness and noises that startled also signalled incoming threats of an outbreak of violence and riotous activity. The Straits Settlements Government Surveyor John Turnbull Thomson drew on this association of noise and mass assemblies, remarking that "if every class was to have its own way, the town would be in a continual clamour by noisy and riotous processions,"[80] and that "[w]hen the Chinese run riot, it is generally in the streets during processions."[81] An 1846 proclamation posted in town and in temples in Singapore cautioned the Chinese that "[t]he practice of assembling in large numbers and proceeding along the public roads with flags, music, or arms of any description is forbidden…No processions will be allowed having any connection with illegal societies of any description, and should this order be infringed, all guilty persons will be considered as disturbers of public peace…."[82] Linking the propensity for riotous activity with insufficient disciplinary safeguards, a written account in 1856 expressed the concern of convicts dispersed over the country, who, having "very little feeling of restraint" by themselves coupled with the lack of adequate guard or control could result in an outbreak at a mere moment's notice.[83] In an anticipatory and preventive gesture

[78] Sykes, "Sound as Promise and Threat," 128.

[79] This 1844 account supposed that the Hindu processional rite should be condemned and disallowed, because it was taking place on land "founded and settled by Europeans and therefore to be governed according to their laws and customs". Buckley, *An Anecdotal History,* vol. 2, 417 – 418.

[80] Buckley, *An Anecdotal History*, vol. 1, 357.

[81] Buckley, *An Anecdotal History*, vol. 1 357.

[82] Translation given by Buckley, *An Anecdotal History,* vol. 2, 444.

[83] Buckley, *An Anecdotal History,* vol. 2, 630-631.

in 1865, the Governor William Orfeur Cavenagh and Commissioner of Police Thomas Dunman forbade processions of the Muharram Festival in light of serious disturbances in the form of street fights of Hindu and Islamic secret societies.[84] The riotous potential of processions surfaced in Cavenagh's recollection of his time in Singapore, where he recalled his order to prohibit all processions as Governor for the sake of preventing "future breaches of peace" owing to the disturbances that arose from collisions between rival parties from different processions.[85]

The responsibility of the colonial administration to prevent unchecked displays of ethnic or religious street displays and gatherings was invoked on more than one occasion through various avenues, one being the local newspaper. Relevant commentaries and opinion pieces often framed administrative responsibility in terms of colonial dignity and the primacy of European settler rights over religious liberty. The idea of having licencing regulations to put a check on unrestrained liberty was contained in the demands for stricter, if not more specific governing laws in a colonial society newly established from 1819 and achieving Crown Colony status in 1867. In 1831, the *Singapore Chronicle* took a stand against the outrage to European senses and colonial order by religious festivals of a non-Christian nature that were held in public exhibition. The opinion that the manner in which the targeted rites, processions, assemblies and festivities were conducted with unchecked freedom ought to be limited to specific places on the outskirts of town "where the eye of modesty cannot be outraged"[86] appears to be based on the tenets of Christian morals and "common rules of decency and decorum"[87]. Unsurprisingly, the funeral procession of Chinese Christians were cast with descriptions of being orderly and quiet, not the "tumultuous and noisy

[84] Buckley, *An Anecdotal History*, vol. 2, 723.

[85] William Orfeur Cavenagh, *Reminiscences of an Indian Official* (London: W. H. Allen, 1884), 255.

[86] *Singapore Chronicle and Commercial Register*, 23 June 1831.

[87] *Singapore Chronicle and Commercial Register*, 23 June 1831.

rabble such as we are accustomed to see among Chinese on similar occasions; not a word was heard, because Christian faith had ennobled and dignified their ideas and feelings."[88] This was a familiar sentiment about Christian doctrines and values providing a guiding path for the Chinese away from the vices of gambling and opium smoking.[89] Usage of the vocabulary of public nuisance to characterize native street processions had existed before the 1870s in the earlier days under East India rule. In 1849, the Grand Jury identified "as a most serious public nuisance the practice of allowing native processions in the public streets"[90]. The Jury then recommended for the rigid prevention of all processions and letting off firecrackers in public streets, and for natives to "confine their celebrations to those places where they will not constitute a public nuisance"[91]. In this instance, what constituted public nuisance acquired place-specificity; ruling whether a public nuisance had occurred would depend on the character of the locality or of the neighbourhood or district.

Thus, there was an observable trend of gatherings for purposes of processions or festival commemorations in a public arena becoming increasingly cemented in the imagination of being aesthetically and morally affronting, and physically obstructive to traffic and calm on the streets, and disruptive of public peace and order. The over-publicization of one's communal identity was, to European inhabitants in Singapore, continually treated as an unwarranted and intrusive disruption of supposedly harmonious relations between individuals congregating in the public street, square, or space. Together with the associated propensity for ethnic unrest and discord, overt

[88] "Untitled," *SFP*, 4 May 1846, 1.

[89] "…when well taught and enlightened by the Gospel and God's grace, they generally show themselves here as elsewhere a grateful and worthy people…let the vice be checked and their intellects be at the same time properly enlightened by sound instruction and they will become other men." "Untitled," *SFP*, 4 May 1846, 1.

[90] Buckley, *An Anecdotal History*, vol. 2, 505.

[91] Ibid.

displays of ‘native sounds’ and the physical gathering of bodies at public processions and assemblies were public expressions of non-European religiosity and cultural identity that were deemed dangerous in the colonial theatre.[92] This assault on the senses and disruption of the prevailing order prompted non-official entreat the colonial administration to bear down on local displays of music, religiosity, and entertainment.

[92] Sykes, “Sound as Promise and Threat,” 134.

2.2 Making Music Illegal: Legislative Council Discussions, 1870s

As the perceptions of public processions suggest, the physical assembly of persons and music in Asian festivities elicited negative emotions from a verifiably European Christian viewpoint that had associated its physical and sonic presence with public nuisance. Rules and regulations as a check on the risk that native festivals and ceremonies posed to public order have been in place since the mid-nineteenth century but it was not till the 1870s that legislative consolidation cast greater scrutiny over these overt forms of festivity and celebration. LegCo discussions in 1870, 1871, 1872, and 1895 were significant milestones in the processes that made public and private music illegal and punishable offences in the Straits Settlements. This subsection examines the motivations and spectrum of opinion involved in the legislative changes over the sounds of the street and the sounds of the home in the late nineteenth century.

During the meeting of LegCo members in August 1870, the Governor first introduced a bill to clarify the nominal status of the Commissioner of Police of each Settlement, and to address police power of the control of processions, with the latter deemed unsatisfactory under the provisions of the 1856 Indian Police Act.[93] Citing the recent arrest of a man for using music without a license at a procession, in which the presiding magistrate declared that "he had no power to punish him because certain rules declared to be necessary by the Act of 1856 had not been framed"[94], the new bill also reflected the Colonial Secretary's desire for more stringent procedures to fill present lapses in existing legislature, namely that of the requirement of a license to accompany the conduct of any procession or assembly in streets with music being played at. This new legal requirement of having to apply for licenses was not to apply to European, Armenian,

[93] *Proceedings of the Legislative Council of the Straits Settlements* (PLCSS), 22 August 1870, CO 275/12, 83.

[94] Ibid.

and Eurasian processions "who produce[d] no disturbance"[95], nor to military and naval processions as stated in section nine of the new Ordinance, named as the Police Amendment Ordinance X of 1870 (Fig. 3) and passed in October within two months of its first reading with minimal dispute or resistance. Under this ordinance, it became mandatory to acquire separate licenses for the conducting of assemblies and processions in public thoroughfares and to play music at these events. Successfully obtaining a license to conduct an assembly or procession did not come with the license to play music; it had to be sought permit for separately. Following this legal logic, the lawfulness of music and the act of public processions had been divorced in a two-step procedure of licensing that hinged upon the sole judgement of the Commissioner of Police, the individual tasked with overseeing the approvals of license under the terms of the new ordinance. The introduction of a mandatory 'music license', to accompany the one obtained for the procession that the music was intended to be featured in, was a new one in Straits Settlements legislature in the nineteenth century. Additionally, sections ten and eleven granted vast licensing authority and leeway to set and to augment rules for the conduct of the processions and for the compulsory accompaniment of processions with the license, which was also required to be produced "on the demand of any Police Officer"[96].

Following the passing of the Police Amendment Ordinance in October, the Governor raised the matter of regulating private playing of native music a month later in late November in Council:

> *It appears that it has been the practice for the Police here to regulate the performance of native music in the houses of the natives, and the result has been that probably a great deal of inconvenience, annoyance, and even danger has been spared*

[95] PLCSS, 22 August 1870, CO 275/12, 84.

[96] *Straits Settlements Government Gazette* (SSGG), no. 40, (7 October 1870): 558.

> *to the community. I need not say to any member of this body what is the effect…after a hard day's work, of having a house just near where they are keeping up a native festival. Well, the practice is as I have stated, but it is not legalized, and when it was brought to my attention I was at first disposed to say it must be put a stop to, but the Commissioner of Police pointed out to me the annoyance, and in some respects the danger that would ensue if these natives were suffered to have noisy music in their houses at all times and seasons and under no regulations, and I thought it right to bring the matter before the Council. If the Council is of opinion that it is one that should be dealt with, it can be done by a Bill to prohibit the beating of drums, tom-toms, or native music in a house within the four mile limits without the authority of the Police. I may say that is the practice that has obtained here for many years, and we must now either decide to abandon all restraint over their annoyance, or we must legislate for the purpose.* [97]

The Governor's initiative in bringing about renewed legislation targeting private music was not merely the regulation of music occurring in private homes. More specifically, these were proposed steps for legislative revision to curtail the effects caused by unrestrained production of 'noisy music'. A chief concern lay in having the right measures to counter the sort of "danger that would ensue" if the colonized populace were allowed continued, unchecked, unrestrained, and unregulated freedom. A clear reason for the intervention emerges from the Governor's speech: to prevent the disturbance of a person's rest or sleep after working hours at night. This especially applied to persons living close to where native festivals, festivities, or fanfare were held.

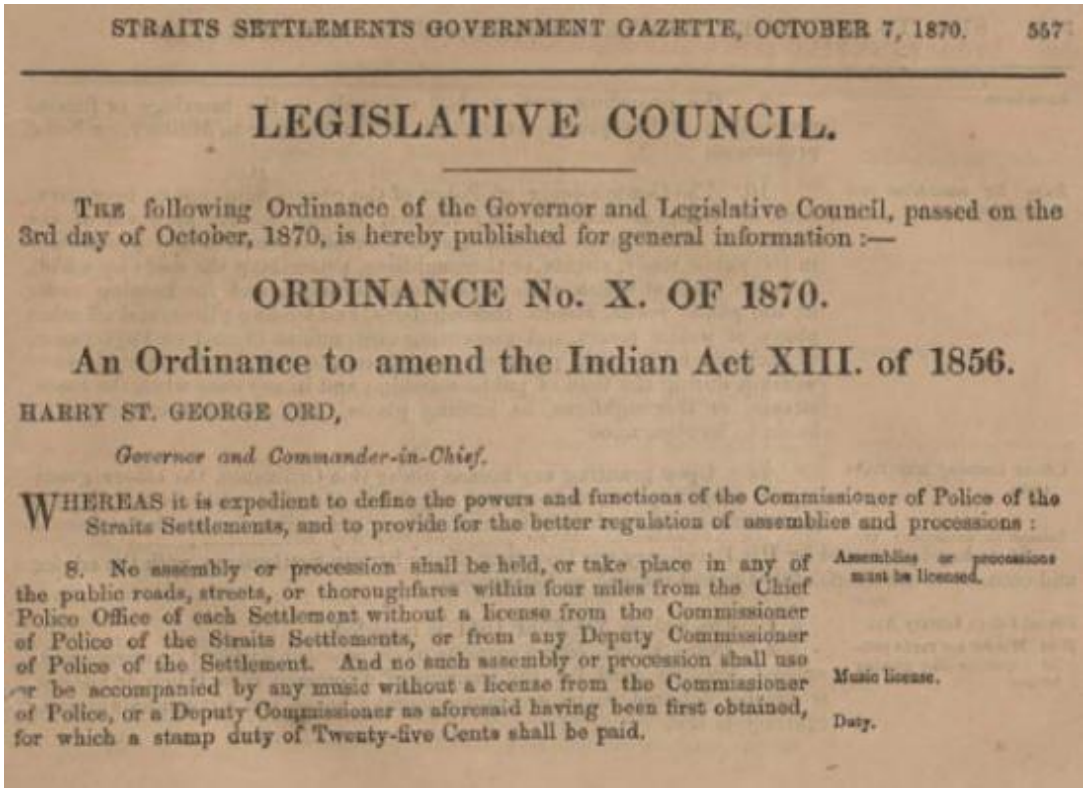
[97] PLCSS, 24 November 1870, CO 275/12, 145. Reproduced in "Shorthand report of Legislative Council, Singapore, 24th November, 1870," *ST*, 17 Dec 1870, 2.

Inconvenience, annoyance, and danger were cited in escalating fashion, in order from the mere trivialities to more serious corporeal risks, and these emotional and safety aspects attributed to the phenomenon of noisy native music tied in with the negative perception of non-European music that was being played, and so heard, at wrong or unreasonable times. In the Governor's mind, the unrestrained state and frequency at which native festivals and playing of native music were being held represented a pre-legalized state of affairs that characterized Singapore, a lawless *terra incognita* absent colonial legal control, intervention, and supervision. The ending line of the speech presented an imagery of the law-making council being at the crossroads, with one path laid bare for legislation and the alternative being sustained annoyance if any semblance of restraint was to be forsaken and disregarded.

Compared to the section of the Indian Act that regulated the playing of specific instruments in streets, in which only prohibited instruments and places were specified, section one of the Police Amendment Ordinance No. 2 (XVIII. of 1870) included the broad terminology of "music" into the legal wording, fine-tuned and narrowed locality to the space of the 'house', and paved the way for the measurement, evidencing, and judgement of "noise calculated to be an annoyance to the public" (Fig. 4 & Table 2). The inclusion of "noise calculated to be an annoyance to the public" meant that feelings of annoyance were now a actionable ill-effect caused by noise; the specifying of emotional and non-physical harm or damage from nuisance was a similar implication present in older nuisance laws, as the next chapter discusses.[98] In the spirit of screening activity through the issuance of permits, and by amending the law to apply more closely to the space of the house, the

[98] See Chapter 3 for a discussion of inherited terms in nuisance law across English common law, Indian law, and the Straits Settlements variant.

second Police Amendment Ordinance can be interpreted as the law's honing in to private spaces, paving the way for case-by-case, circumstantial judgement into the broader legal provisions.



STRAITS SETTLEMENTS GOVERNMENT GAZETTE, OCTOBER 7, 1870. 557

LEGISLATIVE COUNCIL.

THE following Ordinance of the Governor and Legislative Council, passed on the 3rd day of October, 1870, is hereby published for general information :—

ORDINANCE No. X. OF 1870.

An Ordinance to amend the Indian Act XIII. of 1856.

HARRY ST. GEORGE ORD,

Governor and Commander-in-Chief.

WHEREAS it is expedient to define the powers and functions of the Commissioner of Police of the Straits Settlements, and to provide for the better regulation of assemblies and processions :

Assemblies or processions must be licensed.

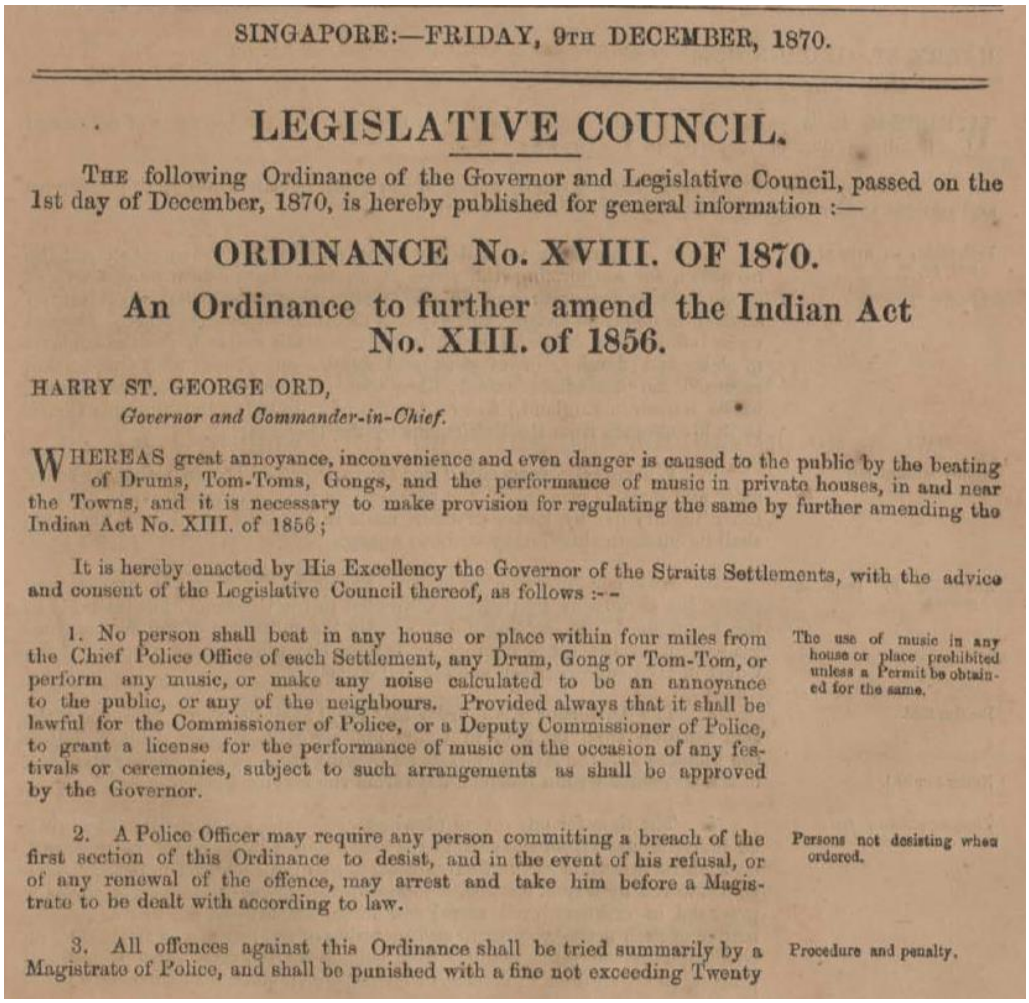
8. No assembly or procession shall be held, or take place in any of the public roads, streets, or thoroughfares within four miles from the Chief Police Office of each Settlement without a license from the Commissioner of Police of the Straits Settlements, or from any Deputy Commissioner of Police of the Settlement. And no such assembly or procession shall use or be accompanied by any music without a license from the Commissioner of Police, or a Deputy Commissioner as aforesaid having been first obtained, for which a stamp duty of Twenty-five Cents shall be paid.

Music license.

Duty.

Figure 3: Gazette notification of Ordinance No. X. of 1870 [99]

[99] *SSGG*, no. 40 (7 October 1870): 557.



SINGAPORE:—FRIDAY, 9TH DECEMBER, 1870.

LEGISLATIVE COUNCIL.

THE following Ordinance of the Governor and Legislative Council, passed on the 1st day of December, 1870, is hereby published for general information :—

ORDINANCE No. XVIII. OF 1870.

An Ordinance to further amend the Indian Act No. XIII. of 1856.

HARRY ST. GEORGE ORD,
Governor and Commander-in-Chief.

WHEREAS great annoyance, inconvenience and even danger is caused to the public by the beating of Drums, Tom-Toms, Gongs, and the performance of music in private houses, in and near the Towns, and it is necessary to make provision for regulating the same by further amending the Indian Act No. XIII. of 1856;

It is hereby enacted by His Excellency the Governor of the Straits Settlements, with the advice and consent of the Legislative Council thereof, as follows :—

The use of music in any house or place prohibited unless a Permit be obtained for the same.

1. No person shall beat in any house or place within four miles from the Chief Police Office of each Settlement, any Drum, Gong or Tom-Tom, or perform any music, or make any noise calculated to be an annoyance to the public, or any of the neighbours. Provided always that it shall be lawful for the Commissioner of Police, or a Deputy Commissioner of Police, to grant a license for the performance of music on the occasion of any festivals or ceremonies, subject to such arrangements as shall be approved by the Governor.

Persons not desisting when ordered.

2. A Police Officer may require any person committing a breach of the first section of this Ordinance to desist, and in the event of his refusal, or of any renewal of the offence, may arrest and take him before a Magistrate to be dealt with according to law.

Procedure and penalty.

3. All offences against this Ordinance shall be tried summarily by a Magistrate of Police, and shall be punished with a fine not exceeding Twenty

Figure 4: Gazette notification of Ordinance No. XVIII. of 1870 [100]

[100] *SSGG*, no. 49 (9 December 1870): 851.

ACT/ORDINANCE	CLAUSE
POLICE ACT (NO. XIII OF 1856)	Section LXXXI. ("Penalty for offences in public streets") Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the Local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding twenty Rupees: (12) Whoever beats a drum or tomtom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police, shall be liable to a fine.
POLICE AMENDMENT ORDINANCE 1870 (NO. X. OF 1870)	For the purposes of providing for better regulation of assemblies and processions: Section 8 ("Assembles and processions must be licensed."; "Music license.") No assembly or procession shall be held, or take place in any of the *public roads, streets, or thoroughfares* within four miles from the Chief Police Officer…without a license from the Commissioner of Police…or from any Deputy Commissioner of Police of the Settlement. And no such assembly or procession shall use or be accompanied by any music without a license…
POLICE AMENDMENT ORDINANCE NO. 2 OF 1870 (NO. XVIII OF 1870)	For the purposes of regulating the beating of Drums, Tom-Toms, Gongs, and the performance of music in private houses in and near Towns: Section 1 (The use of music in *any house or place prohibited unless a permit be obtained* for the same): No person shall beat, in *any house or place within four miles from the Chief Police Office* of any Settlement, any drum, gong, or tom-tom, or perform any music, or make any noise *calculated to be an annoyance* to the public, or any of the neighbours.

Table 2: Comparison of 1856 Police Act with 1870 Police Amendment Ordinances

ACT/ORDINANCE	CLAUSE
POLICE FORCE ORDINANCE (NO. I OF 1872) [101]	"Street Obstructions." Section 32: "The Inspector-General may, from time to time, subject to the approval of the Governor in Council, make General Rules for the conduct of all assemblies and processions in public roads, streets, and thoroughfares… …and the Inspector-General and Chief Police Officers may give licenses for the use of music in the public roads, streets, and thoroughfares on the occasion of native festivals and ceremonies. Provided that, it shall be lawful for the Inspector-General, and Chief Police Officers with the sanction of the Governor, to prohibit any assembly or procession in any public road, street, or thoroughfare."
SUMMARY CRIMINAL JURISDICTION ORDINANCE (NO. XIII OF 1872)	Section 19 ("Police Offences") **II.** Whoever, at any native festival or ceremony, uses, or causes to be used, or allows to be used, any music in the public thoroughfares, without a license as prescribed in Section 32 of the Police Force Ordinance, 1872, or uses or causes to be used, or allows to be used, the same contrary to the terms of any such license; a penalty not exceeding twenty-five dollars. [102] Section 21 ("Street Offences") Whoever, within such limits as shall be from time to time defined by the Inspector-General of Police…in any public thoroughfare or place of public resort, commits any of the following offences, shall be liable to penalty not exceeding ten dollars; but the penalty under Clause VIII. may amount to, but shall not exceed, twenty-five dollars. **VIII.** Whoever, without the permission in writing of the Chief Police Officer, beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil"[103]

[101] The Police Force Ordinance, 1872 was a repeal and re-enactment of Police Force Ordinance, 1871. Charles Goodricke Garrard, *The Acts & Ordinances of the Legislative Council of the Straits Settlements, from the 1st April to the 7th March 1898 in two volumes* (London: Eyre and Spottiswoode, 1898), vol. I, 242.

[102] Garrard, *Acts & Ordinances 1898*, vol. 1, 278.

[103] Clause not held to apply to military music. Garrard, *Acts & Ordinances 1898*, vol. 1, 281-2.

	Section 46 (“Chapter V. Abatement of Nuisances”) Any Magistrate, by a written order, may direct any person to abstain from a certain act, or to take certain order with certain **property** in his possessions or under his management, whenever such Magistrate considers that such direction is likely to prevent or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any person lawfully employed; or danger to human life, health, or safety; or a riot or an affray. [104]
MINOR OFFENCES ORDINANCE (NO. XIII OF 1906)	Section 15 (“Other Offences”) Any person who commits any of the following offences shall be liable to a fine not exceeding twenty-five dollars: (g) without the permission in writing of the Chief Police Officer beats within the **limits of any town or village** between the hours of 11 p.m. and 5 a.m. of the next day, or in any public road at any hour, a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil; i) notwithstanding that such permission in writing has been given, any police officer not under the rank of inspector, on the complaint of a house-holder that the noise of any such instrument is **dangerous to any sick person living near the place** where such noise is going on, or for other good and sufficient reason, may enter upon the premises where the noise is, and after warning stop the same, either by the removal of the instruments or the dispersal of those assembled there; [105]

Table 3: Timeline of legislation for regulating street processions and public sounds.

[104] Garrard, *Acts & Ordinances 1898*, vol. I, 290.

[105] *The Laws of the Straits Settlements Revised up to and including the 31st day of December, 1919, but exclusive of War and Emergency Legislation* (London: Waterlow & Sons Limited, London Wall, 1920), vol. 2, 254 – 255. The law relating to Minor Offences, first codified in Ordinance XIII of 1906, was largely a re-enactment of Ordinance XIII of 1872, I of 1872, and XIII of 1856. Braddell, *The Law of the Straits Settlements*, 63.

In summary, the two amendments of 1870 can be seen as attempts to clarify, bestow, and fine-tune the level of authority given to the police force to regulate processional and stationary music performances in private houses and within municipal limits, and separately for their use of music in both cases. Two decades later, additional legislation in the form of the 1895 Theatres Ordinance would be introduced to extend regulatory powers over the conduct of theatrical performances that were open to public resort. With respect to the 1870 ordinances, introducing the language of licensing set to be a regulatory mechanism marked the departure of legislating attitudes and motivations of the LegCo from the pre-1867 governance, which lacked the specification of locality seen in the 1870 ordinances, giving discretion as broad as "at such times and places as shall be from time to time allowed"[106]. The first amendment ordinance honed in on regulating the dangers to public order and other risks associated with a public procession, while the second directly addressed the ill-effects stemming from unrestrained private music in private houses. In terms of the concern with noise, the noise associated with unlicensed music was pegged to its riotous potential, whereas the second dealt with local disturbances between and caused onto homes with its more civic focus on neighbourhood disturbances, which bore the implicit but unmistakeable objective to secure noise-free sleep and rest for those living within earshot of native performances and Asian music.

In 1871 and 1872, two more bills were proposed for the consolidation and amendment of the law relating to the police force. The primary objectives of both bills were for the re-organization of the structure and organization of the force, which was then considered to be in an unsatisfactory state, and, as the title suggested, for the consolidation of the specified laws.[107]

[106] See Table 2, "Police Act (No. XIII of 1856)".
[107] PLCSS, 14 August 1871, CO 275/13, 133.

Beginning the second reading of the proposed bill in August 1871, the Attorney-General gave a summarized brief of the purposes of each section under the existing state of the law, during which the current state of regulating street obstructions, theatres, and assemblies in the streets, and the liberty of the native population came under discussion. Claiming that the greatest cause of disturbances and obstructions in the colony was "the free use made, by all classes of the native population, of street theatres, performances, and processions"[108], the Attorney-General's speech showed a continued preoccupation with the unregulated state of processions and theatrical performances.

The bill for 1871 contained a 48th section that specified separate licensing terms for theatrical performances "to be held in any theatre, shed, tent, or other closed place" open to the public, and the use of music, drums, tom-toms, gongs, trumpets, and similar instruments "in any house or place on occasions of festivals, at which such instruments are ordinarily used"[109]. Besides public streets, roads, and thoroughfares, routes crossing into private ground were now within purview of the Inspector-General and Chief Police Officer "for the preservation of order inside, and outside, and in the neighbourhood" [110] where the assembly, procession, or theatrical performance was held. Similarly, the specification on the "fee for music or tom-toms" now included that of both public and private places. The proposed amendments for police authority and jurisdiction in 1871 now included a merging and subsuming of the objectives contained in the

[108] PLCSS, 14 August 1871, CO 275/13, 134.

[109] "Draft of An Ordinance to Consolidate and Amend the Law relating to the Police Force," *SSGG*, no. 31 (4 August 1871) 357.

[110] Ibid.

1870 ordinances[111] which expanded its authority to overlap the space of private grounds and houses.

Addressing the existing practice of issuing licenses for assemblies and processions, theatrical performances, and the use of music, tom-toms and gongs thereof, the Attorney-General in 1871 commented:

> *A distinction is made between music and tomtoms. Tom toms and gongs are used, I believe, in India, but are unknown in Europe, and matter requires to be specially dealt with, because it is a monotonous sound of drumming and beating metal gongs kept up often for a whole night, so that it is impossible to sleep, and sick people are seriously affected. Music is a thing which is generally supposed to have something pleasant about it, but there is nothing bearable or agreeable about these tom toms or gongs.*[112]

The characterization of the tom-tom and the gong as unmusical and the concern for the wellbeing of sick persons continues to be reflected in a revised form in the 1872 bill. The tenth clause under Section 41 governing public assemblies and processions responsive to the complaints of sick persons read: -

> *On a complaint by or on behalf of any person suffering from ill-health that the use of drums, tom-toms, gongs, trumpets, or other similar instruments at any place in the neighbourhood of his place of residence is injurious to him, the Chief Police Officer may, on being satisfied of the reasonableness of the complaint, prohibit the use of such*

[111] This bill of 1871, which would later be passed as and named the Police Force Ordinance of 1871, stated in its section two that the two Police Amendment Ordinances of 1870, that being ordinances X and XVIII relating to processions and private music playing respectively, would be repealed.

[112] PLCSS, 14 August 1871, CO 275/13, 135.

instruments, if the place is not wholly or chiefly inhabited by persons who are in the habit of using such instruments.[113]

While reinforcing tom-tom and gong sounds as sleep-depriving ones, cementing notions of its lack of musical properties, the concern for noise's effects on the invalid was a relatively new frame to be introduced into actual legislative wording.

Apart from this tenth clause – which itself received considerable discussion in Council on 20 June, section 41 also contained a fourth clause directed at the use of tom-toms. This read: - "For the use of drums, tom-toms, gongs, trumpets, and other similar instruments, in any house or place, between the hours of 9 p.m. and 6 a.m., on occasions of festivals at which such instruments are ordinarily used"[114]. The objective stated in Council was to limit usage as far as they presented a nuisance to others without "interfering unreasonably with the customs of the natives, who have the same right to amuse themselves as others have". The Governor saw that it was essential for new changes in the bill to maintain a balance between the regulation of and liberty afforded to. To this the Colonial Secretary remarked that a restriction of hours was a legitimate provision in lieu of the "great inconvenience to Europeans…kept awake after a reasonable hour at night by this native music"[115] However,

…to lay it down distinctly at such length as is done here is quite unnecessary, and all that is required is to give the Inspector-General, or Chief Police Officer, power to give

[113] Although the health of ill or invalid persons emerged as an aspect from which to consider noise and sound in, and although this concern came to be reflected in legislative proposals and the resulting regulations, the press coverage of an individual seeking respite for his ill wife hopping between authorities comes to mind on the possible disjunction between discourse and applied practice. "A Bill to Repeal and Re-enact the Police Force Ordinance, 1871," *SSGG*, no. 26 (4 June 1872): 173.

[114] PLCSS, 20 June 1872, CO 275/15, 25.

[115] Ibid.

licenses for the use of drums, gongs, and instruments of that kind, at certain hours, and that no person should be allowed to use them beyond the hour fixed.

I think to limit it at nine o' clock is unnecessary and unfair. I do not see why the natives should be compelled to go to bed, or not be allowed to use music after nine o' clock. If we come here to reside we must submit to some inconvenience.[116]

Another Council member Shelford objected to the fourth clause on account of its implications for restricting "the amusements of European gentlemen" and its feasibility of being enforced in practice, the latter being called into question due to the continued unabashed state of cracker-firing in spite of existing regulations. The Chief Justice and Dr. Little similarly voiced their objection to the fourth clause, voicing their preference for class legislation - that liberty from legislation should be given to parties living in parts of the town chiefly inhabited by individuals who are "in the habit of using such instruments"[117]. The Attorney-General, however, was of a different mind, adopting the stance that natives should submit to the laws in force without exception in a "European colony" such as Singapore.[118] Members differed in opinion on the strictness of the clause and whether licensing could be an effective regulatory mechanism, but shared some views about where native music belonged and the imperative of preventing the interruption of the natural rest hours that the European resident was entitled to. These common beliefs appeared to be premised on an implicit acknowledgement that native music was aurally and temporally incompatible with what the Europeans were accustomed to, "…that to persons accustomed to it, it is not a nuisance, but to persons not accustomed to it it is a most abominable

[116] PLCSS, 20 June 1872, CO 275/15, 25.

[117] Ibid.

[118] Ibid.

nuisance, and every European must recognize it as such."[119] Noise emerged as a problem when music was played at a place and timing that coincided with another's scheduled period of repose. Those in favour of class legislation advocated for the application of the locality principle, the enforcement of which could mean that drums, gongs, and similar instruments could be played freely in the parts of town chiefly inhabited by natives and other non-Europeans, which meant that there was little choice left for disgruntled residents but to reside elsewhere. This could also be read as a certain wariness over the local reception of the amendments to legislation. One commonality that most, if not all Council members present on 20 June shared, was a wariness of the bill becoming an encroachment on native liberties and right to amusement.

Another instance involving a balancing act between liberty and licence surfaced in deliberations over the 1895 Theatres Bill. Designed to make provisions for the better regulation of theatres and theatrical performances, the bill was formally introduced in Council on 21 October 1895. Laid out by T. H. Kershaw, the acting Attorney-General of the Straits Settlements, the new bill proposed ceding additional deciding authority to the CPO and to law enforcement authorities that had "long felt the want of some power of control over theatres, wayangs and similar performances, especially those carried on by Chinese and Malays."[120] A proposed clause of the bill mandating a license from the CPO to open a theatre or to carry on a theatrical performance, which had replaced an earlier provision requiring a seven-day advance notice, was contested on the grounds of being overly legislating. One council member August Huttenbach argued for the clause's omission, on account of it placing excessive responsibility of decision-making in the hands of the CPO. Instead of subjecting people to the laborious process of having to apply for

[119] PLCSS, 20 June 1872, CO 275/15, 27.

[120] "Government Notification No. 404," *SSGG*, no. 32 (12 July 1895): 723.

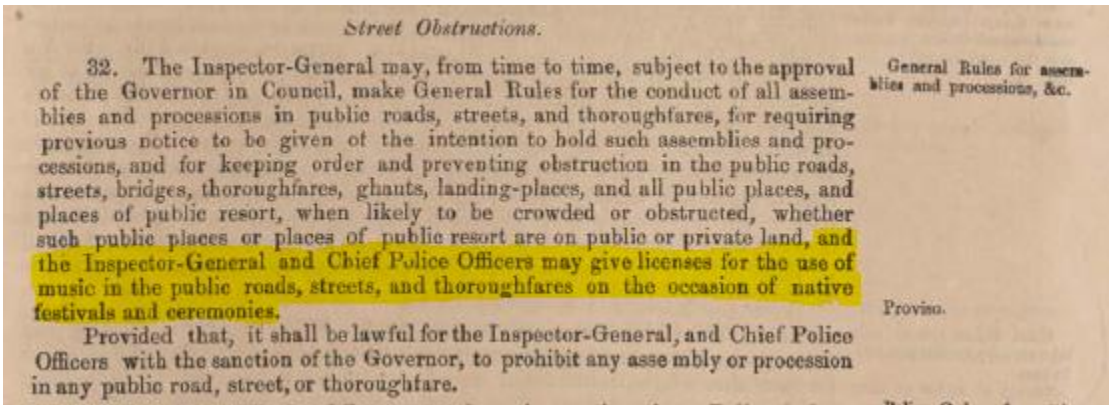
licenses, Huttenbach also advocated for patrolling police to observe, and to stop if necessary, any objectionable theatrical performance, a route that was comparably more straightforward than the licensing process, which in his opinion seemed "too much like an interference with the liberty of the subject"[121]. Concurring with Huttenbach, another unofficial member James Montague Bent Vermont pointed out that the license procedure was excessively restricting on residents in country districts. Vermont felt that the license procedure penalized and disadvantaged natives who were living at a distance from formal institutions of the District Officers and those who wished to hold a theatrical performance when they wished on quick notice and at their own whim.

> *They all knew how the native kept up his wayang at all hours of the night. Why, in the neighbourhood of Government House tom-toms were kept going till after eleven o' clock! It was very desirable to have some power to stop these objectionable noises at a reasonable hour, especially if there be any sick near. But to expect every Malay village wayang to be licensed was contracting far too much the amusements of the people.*[122]

Expanding on the applicability and feasibility of this proposed clause, the distinction on the necessity of applying this clause to town and country districts was made. Vermont's suggested amendment to make the third clause applicable only in Municipalities was passed, while Lim Boon Keng's suggestion to have the Protector of Chinese give his judgement, to balance that of the Chief Police Officer's, which would be less authorized to make a decision on the objectionable nature of a performance, was rejected by eight to four. Huttenbach's suggested amendment to remove the licensing procedure was rejected unanimously.

[121] "Legislative Council – Monday, October 21st, 1895," SFP, 22 October 1895, 3.

[122] Ibid.



Street Obstructions.

32. The Inspector-General may, from time to time, subject to the approval of the Governor in Council, make General Rules for the conduct of all assemblies and processions in public roads, streets, and thoroughfares, for requiring previous notice to be given of the intention to hold such assemblies and processions, and for keeping order and preventing obstruction in the public roads, streets, bridges, thoroughfares, ghauts, landing-places, and all public places, and places of public resort, when likely to be crowded or obstructed, whether such public places or places of public resort are on public or private land, and the Inspector-General and Chief Police Officers may give licenses for the use of music in the public roads, streets, and thoroughfares on the occasion of native festivals and ceremonies.

General Rules for assemblies and processions, &c.

Proviso.

Provided that, it shall be lawful for the Inspector-General, and Chief Police Officers with the sanction of the Governor, to prohibit any assembly or procession in any public road, street, or thoroughfare.

Figure 5: Clause specifying the general rules for assemblies and processions in the Police Force Ordinance 1872. The Governor had proposed for the complete removal of section 41, which specified rules for public assemblies and processions, and for the addition of 1856 Indian Act language (highlighted) to another section (shown as section 32 above). [123]

The outcome of the committee deliberation in Council on 20 and 27 June 1872 was first the removal of clause four, and then the complete omission of section 41 and the expansion of section 39 to cover that removal (subsumed under section 32 in the ordinance, fig. 5) . Hence, it appeared that the specificity of the proposed section 41 in the proposed bill was omitted by the Governor to keep the legislative language cleaner and simpler – which was a reverting to the old laws of the 1856 Indian Act in the Governor's opinion – in lieu of the disagreement expressed and future legislating difficulties that might arise over section 41. Legislative language had, as it seemed, come full circle. It can also be reasonably speculated that the omission of section 41's specificity in the 1871 ordinance was not a neglect of the earlier concern about unrestrained private music, first expressed in 1870 and culminating in the terms of Police Force Amendment Ordinance No. 2. Specifying "places of public resort" was a way of governing activities taking place in private spaces that were open to public attendance, a midway point between that that was strictly public or private in character. Far from a neglect of the detriments of unregulated, late-night private music

[123] "Ordinance No. I. Of 1872, An Ordinance to Repeal and Re-enact the Police Force Ordinance, 1871," *SSGG*, no. 27 (1872): 289. For the decision proposed in the Legislative Council, see PLCSS, 27 June 1872, CO 275/15, 33.

in the vicinity of European residences, the simplification of legal wording can be seen as a continuation of attitudes directed towards unlicensed and unapproved street and private production of non-European music.

2.3 Analysis of Legislative Changes

The purpose of this chapter has been to chart the beginnings of legislature pertaining to processional and theatrical music occurring in the private home. Legislative discourse and its influence on realized or tabled amendments to law reflected the cultural mentalities and pragmatic attitudes of Legco members within their capacities as appointed lawmakers. Discussions in the Legco on proposed amendments and revisions reveal the colonial frame of mind at work perceiving the sounds of native entertainment and performance, problematizing it, and devising mediatory and confining measures. The perception of noise, as a problem in the streets and in various places of public access warranting regulation by the police and the law, was laden with similarities from broader discourse on the sounds heard in Singapore, as one inspiring fright or annoyance, disturbance and disruption. The discretionary regulation of music played at festivals and ceremonies of non-European origin through the use of licensing had also emerged in the legislative machinery. The 1870s, it would seem, had marked a turning point in the regulation of Asian processional and musical activity the colonial setting.

A picture of regulated street music was slowly emerging from the legal revisions of the 1870s that had added licensing of music and public streets to the jurisdiction over public spaces. The regulating of displays and sounds of music and theatricality contributed to the demarcation of private and public spaces in an increasingly "juridicially-defined landscape"[124], contributing to the creation of a "normal status of relative quiet that might occasionally be interrupted by sanctioned sound"[125]. The capacity of music to irritate and to disrupt surfaced in the Legco meetings convened

[124] Michael R. Anderson, "Public Nuisance and Private Purpose: Policed Environments in British India, 1860 – 1947," *SOAS School of Law Legal Studies Research Paper Series*, no. 5 (2011): 16.

[125] McCallum, "Conflict and compromise," 322.

over adjustments of the law relating to street, domestic, and private productions of Asian or non-European music, and the enacted legal revisions contained evolving definitions of thresholds for where, when, and under what circumstances these musical activities became noise. For street processions, using tom-toms and gongs, for example was only legal so long as a permit stating the correct number and description of instruments was obtained – "publicly performed drumming in processions that *does* disturb is perfectly legal, if it is performed under the guise of a valid license"[126]. Specifying time limits, calculated to be an annoyance, and the inclusion of sick persons in proposals and enactments of the laws were all attempts to finetune the various thresholds of legalized music.

The rights accorded to different sections of Singapore's population was a central issue in the decision-making processes of the Legco, of which some members held consideration of native or Asian liberties and the neighbourhood character in matters of music performances in fixed places. Conversations about music and noise can also be read as deliberations over the rights and interests of property owners, European subjects, and the colonized majority, which involved a certain negotiation over what should be a given right of way and which should be secured by legal means, which were indulgences that should be permitted and which should not be lawfully allowed, as some believed, in a British colony inheriting English law. Indeed, specifying the terms of public processions legislature involved a delicate balancing act of different liberties and demands. Terms set to apply to the colonized population were to avoid giving the impression of being excessively oppressive and prohibiting while also not jeopardising the liberty of European residents to conduct processions and to hold private entertainment in homes. As McCallum argues, British policies on street processions were both a tool of control and product of compromise. The entitlement and

[126] Sykes, "Sound as Promise and Threat", 135. Original emphasis italicized.

obligation to "govern their space as they saw fit" was in constant tension with the commitment to allow for religious freedom in the Straits Settlements, with many of the contested sounds being of a religious character.[127] Despite these laws assuming the appearance of all-encompassing one, there were other considerations in addition to the desire to completely restrict Asian music in public places. The coverage of music regulation in this chapter is followed by the focus on the reception of wayang music as neighbourhood noise nuisances in non-official discourse in the next chapter.

[127] McCallum, "Conflict and compromise," 321.

Chapter Three: Noise Nuisances and the Neighbourhood

Examining the reception of 'Asian' sounds through the eyes and ears of colonial mentalities enables the conceptualization of both sensory and sociocultural dimensions of "problem" behaviours, actions, and activities. As elaborated later in this chapter, the privacy and seclusion of the suburban dwelling served as a marker of colonial or even European identity, one that was based on a separation and differentiation from non-European or lower classes. This chapter demonstrates that nuisance was a way of articulating uncertainties specifically felt by a community, and thus was also a discursive category in the personalization of problems caused by this particular noise that was also a reflection of one's communal identity.[128] This chapter aims to demonstrate the historical parameters of nuisance law in its multiple geographical and societal adaptations, and the limits of legal actionability when invoking claims of nuisance. Thereafter, it also endeavours to show how the sounds of the wayang and other sounds associated with the Asian population was articulated as a neighbourhood nuisance in the 1896 'noise nuisance' discourse in Singapore. Before discussing the role and influence of nuisance in colonial settings, the conception and parameters of nuisance in English common law must first be laid out to provide the situational context of nuisance law and its boundaries in later colonial terminology.

[128] Raymond M. Smilor, "Cacophony at 34th and 6th: The Noise Problem in America, 1900 – 1930," *American Studies* 18, no. 1 (1977): 23 – 38; Picker, "The Soundproof Study," 427 – 453; Emily Cockayne, "Cacophony, or Vile Scrapers on Vile Instruments: Bad Music in Early Modern English Towns", *Urban History* 29, no. 1 (2002): 35 – 47; Emily Cockayne, *Hubbub: Filth, Noise and Stench in England 1600-1770* (New Haven, London: Yale University Press, 2007); Derek Vaillant, 'Peddling Noise: Contesting the Civic Soundscape of Chicago, 1890 - 1913', *Journal of the Illinois State Historical Society* 96, no. 3 (2003): 257–87; Samuel Llano, *Discordant Notes: Marginality and Social Control in Madrid, 1850-1930* (Oxford University Press, 2018).

3.1 The Law of Nuisance: Sociolegal Meanings

The occurrence of nuisance terminology in legal and official commentary should alert one to its often widespread and common discursive usage, application, and continuities and reproductions of its meaning across different social, geographical, and historical settings. Social and legal meanings of nuisance varied according to legal, civil, and administrative impulses that drove its use. From the perspective of municipal and police bodies, identifying and targeting certain behaviours considered to be a nuisance acts as a regulatory mechanism against disorder, of which the act of nuisance's potential disruption or offensiveness is counteracted by practices such as licensing. For urban planners, the legal definitions of nuisance exerts an influence on zoning frameworks, contributing to the differentiation of public and private space character that land-use control and planning employs. Nuisance also functions in non-official circles as a discourse on the bounds and definitions of acceptable conduct in specified places and times, functioning as a moralistic and aesthetic sensory barometer. The prevalent feature of nuisance as taken by most legal-historical studies thus regards nuisance as "a way of framing conduct and identities within popular and policy discourse…to denigrate and dismiss as annoying, irritating or harmful, activities, people and natural occurrences."[129]

In contemporary meaning and historical usage, a nuisance is any action or activity determined to have caused a measure of annoyance, obstruction, danger, or injury, either to persons or to property. Historically, the law of tort in common English law reflected concerns with the protection of property rights and the public good, and defined nuisance as occurring whenever the material comfort or enjoyment of land is interfered with or diminished. Beyond the physical limits

[129] Davina Cooper, "Far Beyond 'The Early Morning Crowing of a Farmyard Cock: Revisiting the Place of Nuisance Within Legal and Political Discourse," *Social and Legal Studies* 11, no. 1 (2002): 7.

of the body, the notion of property rights when conflated with nuisance law meant that the unwanted effects of nuisance extended from the individual, mostly to mean the landowner, to the enjoyment of property. In other words, nuisance came to be seen as affecting at both the bodily and the proprietary level. "A nuisance, in brief, is an actionable annoyance which interferes with the ability of another to use or to enjoy his land,"[130] and the general rule that lawmakers and courts sought to ensure was that in any given community "each must use his own property so as not to damnify another"[131]. In other words, the usage of land and property remained lawful until the manner of usage became injurious to another's property interest.

However, not all claims of nuisance could receive the desired legal intervention. For a claim to be judged as an unlawful and therefore actionable, nuisance claims had to be supported with proof of its unlawfulness within the bounds of reasonability. This measure of reasonability applied to standards of personal and proprietary use, enjoyment, and comfort. Following the precedent set by *Walter v. Selfe* in 1851, involving an injunction against a brick-maker's business owing to the smoke and vapour produced to the discomfort of a neighbouring house's inhabitants, it was ruled that only interferences with the "ordinary comfort physically of human existence" constituted as nuisance. Claims of annoyances arising from otherwise reasonable uses of land cannot be claimed as actionable nuisances on the basis of abnormal or particular sensitivities. The case had set a precedent for reasonable claims of nuisance to include the inconveniences or interferences that lay "according to plain and sober and simple notions among the English people",

[130] Joel Franklin Brenner, "Nuisance Law and the Industrial Revolution," *The Journal of Legal Studies* 3, no. 2 (1974): 403.

[131] Brenner, "Nuisance Law and the Industrial Revolution," 407 – 408. This legal maxim of *sic utere tuo ut alienum non laedas*, meaning to use your own property so as not to injure your neighbours, would come to be a defining feature of nuisance law in the seventeenth century that emphasized the right of dominion over one's property, and for the 'quiet enjoyment' of that property or land to be free of would-be interferences. George P. Smith II, "Re-Validating the Doctrine of Anticipatory Nuisance," *Vermont Law Review* 29, no. 3 (2005): 689.

and not "merely according to elegant or dainty modes and habits of living" [132]. Trivial interferences resulting from the prior use of land in decidedly common and ordinary ways were, thus, not actionable.[133] Since land ownership necessarily constitutes having neighbours, "the degree of interference which counts as so significant that an action will lie cannot be at such a low level that any and all annoyances that are occasioned by having neighbours are actionable."[134]

Apart from ordinary standards of use and comfort, determining the unreasonability of the nuisance also depended on other circumstantial factors. This was a non-exhaustive list that included the extent and nature of the nuisance alleged, the defendant's show of remorse, the personal sensitivity of the plaintiff, and the character of the neighbourhood – also known as the nature of the locality. The racial or socioeconomic character of the neighbourhood was a weighty consideration in nuisance claims and cases, and this 'locality principle' implies that permissible levels of interference with a person's land varied from locality to locality.[135] As poignantly summarized on the reasonable use of land in an 1862 ruling concerning another brick-maker, "[t]hat may be a nuisance in Gorsvenor [sic] Square which would be none in Smithfield Market, that may be a nuisance at midday which would not be so at midnight [sic], that may be a nuisance which is permanent and continual which would be no nuisance if temporary or occasional only."[136] This sentiment on the degree of nuisance in different times and places was echoed in *Sturgess v. Bridgman* in 1879, when it was remarked that "[w]hat would be a nuisance in Belgrave Square

[132] *Walter v. Selfe* (1851) 4 De G & Sm 315, quoted in Brenner, "Nuisance Law and the Industrial Revolution," 410, and J. E. Penner, "Nuisance and the character of the neighbourhood," *Journal of Environmental Law* 5, no. 1 (1993): 5. Also see Michael R. Anderson, "Public Nuisance and Private Purpose," 26.

[133] Bramwell B., *Bamford v. Turnely* (1862) 3 B & S 66, quoted in Penner, "Nuisance and the character of the neighbourhood".

[134] Penner, "Nuisance and the character of the neighbourhood," 4.

[135] S. Steele, "The Locality Principle in Private Nuisance," *Cambridge Law Journal* 76, no. 1 (2017): 146.

[136] *Bamford v. Turnely* (1862) 3 B & S 66, quoted in Penner, "Nuisance and the character of the neighbourhood," 5.

would not necessarily be one in Bermondsey"[137], gesturing toward the out-of-place nature that nuisance necessarily embodied. Similarly, in a 1906 case concerning a steam-hammer's production of noise in a decidedly industrial area, it was determined that "…the standard of what amount of freedom from smoke, smell, and noise a man [sic] may reasonably expect will vary with the locality in which he dwells"[138]. The prevailing standard of comfort and what was considered excessive noise differed according "to the situation of the property and the class of people who inhabit it." Legal decisions invoking the 'locality principle' were therefore based on the location's character and existing pattern of use, and reinforced the recognition of the "obvious fact that town, suburban and country life differ in the levels and sorts of noise and smells…that one ought to expect."[139]. It became "common to hear a judge say that life in factory towns required more forebearance than life elsewhere; or that an annoyance which was a nuisance on quiet residential street might not be a nuisance elsewhere"[140] after the 1850s.

The subjectivity of 'reasonability' also emerges wherever and whenever sensory experiences and mental states were involved. As the laws governing nuisance developed, the physical disturbance, harm, or inconvenience resulting from an act of nuisance were not the only consequences resulting from nuisance that were accepted in courts. The disturbance or harm done to mental states of being were eventually accepted for conditions establishing the extent of the nuisance. In 1865, presiding over a case of a smelting company, it was established in the House of Lords decision process that an alleged nuisance could include those of "sensible personal

[137] *Sturgess v. Bridgman*, L. R. 11 Ch. D. 852 (1879), quoted in Brenner, "Nuisance Law and the Industrial Revolution," 414, and Penner, "Nuisance and the character of the neighbourhood" (1993): 10.

[138] *Rushmer v. Polsue & Alfieri Ltd.*¸Ch. D. 234 (1906), quoted in Cooper, "Nuisance Within Legal and Political Discourse," (2002): 14.

[139] Penner, "Nuisance and the character of the neighbourhood," 11.

[140] Brenner, "Nuisance Law and the Industrial Revolution," 414.

discomfort", or "the personal inconvenience and interference with one's enjoyment, one's quiet, one's personal freedom, anything that discomposes or injuriously affects the senses or the nerves"[141], apart from those causing material injury to property. In this regard, health had become a "necessity of 'property'"[142]. To demonstrate reasonable cause to have for abating nuisance in the court, a strong showing of the severity of the affecting nuisance to have been above normal levels – thereby being excessive, or persistent, and therefore unreasonable, was required in legal trials to provide cause for judicial intervention especially where personal discomfort and not material injury was concerned.[143]

Socially-determined notions of common and ordinary standards and 'noisy excess' became essential for examining historical complaints of noise nuisances, when subjectivity was of the utmost, if not the only standard to be relied on, when "…no precise test can [sic] be formulated; rather, unreasonableness must be determined in each case in reference to all the particular facts"[144]. Absent methods to quantify and measure precisely the degree of the alleged nuisance caused, the ephemerality of sensory nuisances such as odours and noise was an impediment to the apprehending and successful prosecuting of alleged culprits. Additionally, the subjectivities of individual and judicial judgements were to play a heavy role in the complaint and the arbitrating role of the judge. Whether a course of conduct or an act could be effectively determined as a legal

[141] *St. Helen's Smelting Co. v. Tipper*, 11 H. L. C. 642 (1865), 650 – 2, quoted in Penner, "Nuisance and the character of the neighbourhood," 8, and Conor Gearty, "The place of private nuisance in a modern law of torts," *Cambridge Law Journal* 48, no. 2 (1989): 227. The comment given in the House of Lords also notes the circumstantial nature of a legal nuisance, that whether "personal discomfort amounts to a nuisance must undoubtedly depend greatly on the circumstances of the place where the thing complained of actually occurs".

[142] Robert Charles Palmer, "Modern Nuisance Law From A Historical Perspective," (Ph.D. diss., University of the West of England, Bristol, 2015): 118.

[143] "Nuisance by Noise in a Private House," *Central Law Journal* 22 (1886): 512, and Brenner, "Nuisance Law and the Industrial Revolution," 415.

[144] Penner, "Nuisance and the character of the neighbourhood" (1993).

nuisance was, at any time, contingent upon what courts and judges believed to be unreasonable degrees or extents of the nuisance, which by extension, also included perceived standards of what constituted ordinary enjoyment.[145] Deciding what was reasonable was a balancing act that judges engaged with, juggling between the necessity, utility, or the normality of the nuisance act on one end, and the rights of the affected parties on the other.[146] Additionally, proof of 'reasonable' and 'unreasonable' noise or smell depended on differing sensitivities and tolerance thresholds of witnesses, plaintiffs, and defendants.

[145] Brenner, "Nuisance Law and the Industrial Revolution," 409.

[146] According to Brenner, the reasonableness of the standard of amenity could also be evaluated with regard to additional factors such as the the manner in which the defendant carried it on. Ibid., 410.

3.2 Noise in Public and Private Space

In his 1768 *Commentaries on the Law of England,* William Blackstone divided nuisances into public or common nuisances, which affect the public, and are an annoyance to all the king's subjects, and private nuisances, done to the hurt or annoyance of the lands, tenements, or hereditaments of another.[147]. For private nuisances, Blackstone remarked that the law could only offer private remedies for private wrongs, and that only indictments but no action lies for public or common nuisances.[148] The section on "Of Offences Affecting the Public Health, Safety, Convenience, Decency and Morals" in the 1860 Indian Penal Code defines public nuisances as actions affecting the public at large or to some class of the public, but not to an individual or only the residents of two or three other houses. That which may be nuisances and were considered offences in populous places, were "either innocent or not deemed deserving of punishment when done in a retired locality"[149]. Thus, the roots of public nuisance lay in its involvement of some class of the public. Later, the 1877 *Indian Criminal Law and Procedure* would dictate that the precondition for the public restriction of noise was a demonstration of its propensity to affect the health of persons and/or neighbouring persons, or the enjoyment of the neighbourhood or property, and this depended upon "in a great measure upon the number of houses and the concourse of people in the vicinity"[150]. These definitions of what the public constituted – itself subject to

[147] William Blackstone, *Commentaries on the Laws of England. In four books* (Oxford: Claredon Press, 1768), vol. 3, 216.

[148] Ibid., 219.

[149] W. Morgan and A. G. Macpherson, "Chapter XIV Of Offences Affecting the Public Health, Safety, Convenience, Decency and Morals," *The Indian Penal Code, (Act XLV. Of 1860,) with notes,* (Calcutta: G. C. Hay & Co., 1863), 203. The Penal Code came into operation on 16 September 1872 after it was passed in 1871, being a re-enactment of the Indian Penal Code but with differences between the two. Braddell, *The Law of the Straits Settlements,* 41.

[150] M. H. Starling and F. C. Constable, "Chapter XIV Of Offences Affecting the Public Health, Safety, Convenience, Decency and Morals," *Indian Criminal Law and Procedure* (London: WM. H. Allen & Co., 1877), 231.

multiple revisions and interpretations in different geographical contexts – would come to determine the bounds of public and private spaces.

The 1860 Penal Code and 1877 *Indian Criminal Law and Procedure* contained a few legal precedents for excessive and unacceptable noise. In the former, "making great noises to the disturbance of the neighbourhood"[151] was a punishable offence, while making loud noises with a speaking-trumpet and barking dogs at night were legal precedents from English law under the public nuisance banner contained in the latter.[152] In *R. v. Smith*, a case which appeared frequently in other law journals and treatises citing cases of nocturnal noise-making to the detriment of the neighbourhood, the defendant was convicted on an indictment and fined for making "great noises" in the night with a speaking trumpet and, in doing so, disturbing the comfort of the neighbourhood.[153] Manifested in the 1877 *Indian Criminal Law and Procedure* the significance of *R. v. Smith* carried over from English to Indian law, thus becoming legislatively closer by association to the law governing the Straits Settlements, which derived legal frameworks based on Indian law before transfer to the Crown in 1867. The noise caused by dogs, according to English lawyer and legal writer Joseph Chitty, was such that "in the night time of the said several days, during the natural and proper hours…made divers[sic] loud yells, moans, and offensive noises, and thereby the said liege subjects of our said lord the king so inhabiting the dwelling-

[151] Morgan and Macpherson, *Indian Penal Code*, 204.

[152] Starling and Constable, *Indian Criminal Law and Procedure*, 229-230.

[153] William Oldnall Russell, *A Treatise on Crimes and Misdemeanors*, 3th ed. (London: Saunders and Benning, 1843), vol. 1, 327; Humphry William Woolrych, *A Practical Treatise on Misdemeanors* (London: Shaw and Sons, 1842), 311: "Not only are trades and employments which threaten the health of inhabitants abateable as nuisances; such likewise as tend materially to diminish the comfort of a neighbourhood are equally objectionable." The case was again cited in "Nuisance by Noise in a Private House," 510-512.For a documented record of R. v. Smith, see John Strange, *Strange's English King's Bench Reports, Reports of Adjudged Cases in the Courts of Chancery, King's Bench, Common Please, and Exchequer, from Trinity Term in the Second Year of King George I. to Trinity Term in the Twenty-First Year of King George II. Taken and Collected by the Right Honourable Sir John Strange*, 3th ed. (1795), vol. 2, 795.

houses…were greatly annoyed and deprived of their natural rest."[154] The two cases were considered public nuisances on the basis of causing disturbance to the peace and comfort of the neighbourhood at night.[155] It would also seem significant that legal provisions under clauses 69 and 90 in the 1865 Police Ordinance in operation in Ceylon and in Singapore, as an extension of Indian laws before 1867, explicitly identified drumming sounds as a noise that disturbed people and horses at night.[156]

Other precedents of nuisance stemming from noise caused by crowds was grouped under public nuisances in the 1867 case of *Walker v. Brewster* and the 1869 case of *Inchbald v. Robinson*. The former held that one might be restrained at the suit of a neighbouring resident from gathering together a large crowd of disorderly persons that posed a nuisance to surrounding residents – in this case, the fete organized allegedly destroyed the privacy of the plaintiff, while the conduct of a circus in the latter case, which consisted of persistent, loud, and continuous music and shouting that could be heard above the sounds of conversation in a house with the windows closed, was decreed a nuisance.[157] The principles of both cases were invoked in a Supreme Court injunction against a private wayang, or Chinese theatre performance in Penang in 1878, where the alleged noise caused by wayang was recognized as nuisance for having interfered with the ordinary enjoyment by the plaintiff of his house with regards to conversation and sleep, holding that the

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[154] Joseph Chitty, *A practical treatise on the criminal law: comprising the practice, pleadings, and evidence, which occur in the course of criminal prosecutions, whether by indictment or information, with a copious collection of precedents of indictments, informations, presentments, and every description of practical forms, with comprehensive notes upon each offence, the process, indictment, plea, defence, evidence, trial, verdict, judgment, and punishment* (Massachusetts: G. and C. Merriam, 1836), vol. 3, 647,

[155] Starling and Constable, *Indian Criminal Law and Procedure*, 229 – 230.

[156] Sykes, "Sound as Promise and Th2w333reat," 133 – 134.

[157] David J. Seipp, "English Judicial Recognition of A Right to Privacy," *Oxford Journal of Legal Studies* 3, no. 3 (1983): 337; Seymour D. Thompson, "Noise and Vibration as Elements of Nuisance," *The American Law Register* 31, no. 10 (1883): 629 – 630. Cases cited are *Walker v. Brewster*, 5 L. R. Eq. 25, (1867) and *Inchbald v. Robinson*, 4 L. R. Ch. Appeals 388 (1866).

court will, at the suit of a private neighbour, restrain the wayang in a house adjoining the plaintiff's by perpetual injunction.[158] In addition to these restrictions imposed on the gathering of crowds in a private space that contributed to noisiness and jeopardized another's privacy, the circumstances of both cases implied that privately held amusements might still contain a quasi-public character liable for a nuisance suit. Following this, an entertainment event or performance held in a privately owned place could be considered as one that was open to any class of the public, hence opening it up to public nuisance actions instead of being protected by much narrower private civil nuisance claims. On the other hand, there were also complications involved when nuisances complained of appeared in the form of "a 'private nuisance' dressed up to fit the 'public nuisance' mould"[159], as the case of *Craufurd v. Wee Soon Choo* in 1898 would suggest in chapter 4.

In colonial Singapore, public nuisance took on many forms. The carrying of night-soil through public streets in daylight, begging, or the exhibition of public indecencies were but a small fraction of behaviours considered to present a nuisance to the public, often couched in the language of uncivilized, native primitiveness. In specific circumstances, liquor intoxication instead of opium addiction was considered a public nuisance for its higher probability of giving rise to disorderly and rowdy conduct in drunk persons on the streets.[160] In Charles Burton Buckley's anecdotal account of the history of Singapore, nuisance was used to refer variously to physical obstructions, immoral or disruptive activities such as piracy or gambling, or even the occurrence of tigers and

[158] James William Norton Kyshe, *Cases Heard and Determined in Her Majesty's Supreme Court of the Straits Settlements in three volumes* (Singapore: Singapore and Straits Printing Office, 1885), vol. 1, 466 – 467.

[159] Robert Charles Palmer, "Modern Nuisance Law From A Historical Perspective," 114.

[160] Aliquis, "Narrow Minds and Liberty," *SFP*, 9 July 1890. In a Legislative Council meeting in 1925, the injury, danger, and nuisance potentially posed by toddy drinkers to the public were cited as good reasons for government abolition of toddy manufacture and sale. "Legislative Council – Questions and Motions," *SFP*, 26 August 1925.

rats.[161] The 1888 Common Gaming Houses Ordinance contained a section that explicitly declared every common gaming house to be a "common and public nuisance contrary to the law"[162]. The jurisdiction and authority that governed nuisance abatement largely targeted nuisances of a public nature. Licenses granted under the 1895 Theatre Ordinance regulating the upkeep, sanitation, and hazard of theatrical establishments could be withdrawn by the Chief Police Officer in the event of the licensed theatre becoming a public nuisance or causing annoyance to persons living nearby.[163] The Minor Offences Ordinance of 1906 contained a specific section on nuisances that made a variety of behaviours an offence when committed in mostly public spaces.[164]

The 1895 report of the Singapore municipality indicated that many official, privately written, and verbal complaints of insanitary nuisances caused by Chinese neighbours that affected the health and comfort of the European had been lodged with the Municipal Commissioners under the 1888 Municipal Ordinance. Differentiating the advised course of action for public and private nuisances, the report reflected the stance of the Commissioners, that:

> *In our opinion it is a question in each case whether the nuisance complained of is a public one, i.e. one affecting the public generally or a private one affecting one person only or a determinate number of persons. In the former case it is the duty of the Municipal Commissioners under section 182 of the Municipal Ordinance to take steps*

[161] Buckley, *An Anecdotal History*, vol. 2.

[162] *The Laws of the Straits Settlements*, vol. 1, 566.

[163] Garrard, *Acts & Ordinances 1898*, vol. II, 1442 – 1444.

[164] However, it should be noted that the governing of 'nuisances' under this ordinance extended only to public spatiality, extending over "private property", "public road", "public place", "public street", "theatre", "theatre, public building, or other place of public entertainment or assembly". "Minor Offences Ordinance XIII. Of 1906, To Consolidate the Law relating to Minor Offences," *The Laws of the Straits Settlements*, vol. 2, 250. For sample references to public places, also see table 2 in chapter 3.

to put it down; in the latter it should be left to the individuals affected to take such action as they may be advised. [165]

Accordingly, under the Municipal Ordinance, Municipal Commissioners were only equipped to address nuisances that exerted its ill-effect onto a number of affected persons sufficiently qualified as the general public. Despite the 1872 Summary Criminal Jurisdiction being an available recourse for action for individual complainants, the report remarked on its underusage despite efforts being made to induce "even the loudest complainants to avail themselves of it"[166]. Section 182 of the Municipal Ordinance of 1887 granted Commissioners with the authority and responsibility of removing, putting down, and abating all nuisances of a public nature occurring in public or private premises, that were injurious to health, safety, rights of affected inhabitants, so long as they occurred within municipal limits.[167] Yet municipal authority was challenged where it met the boundaries of private ownership. As recorded in Municipal President Alex Gentle's progress report for August 1900, the Chief-Inspector noted that the unlicensed keeping of pigs in private Chinese houses classifying as private use remained legal within the municipality despite its causing of nuisance to neighbours and the introduction of a by-law in February mandating the licensing of areas kept for pigs other than for private use, making it impossible to gain conviction for these cases.[168] In a case of complaints against a foundry in a residential quarter in 1894, discussion of suitable recourse for private nuisance complaints in an ordinary meeting of the Municipal

[165] *Administration Report of the Singapore Municipality for the Year 1895* (Singapore: The Singapore and Straits Printing Office, 1896), 14. NL 3351. National Library of Singapore.

[166] *Administration Report of the Singapore Municipality for the Year 1895*, 14.

[167] "Government Notification No. 419 – Ordinance No. IX of 1887. An Ordinance for consolidating and amending the Law relating to Municipal Government," *SSGG* 21, no. 40 (26 August 1887): 1691.

[168] Progress Report, and Statement of the Receipts and Disbursements for the month of August, 1890 (Extract from the Municipal President's Report for August), reproduced in *SSGG*, no. 47 (24 October 1890): 2321. For municipal by-law introduced for the control and supervision of places for keeping sheep, goats, swine and poultry, see "A Long-Needed Bye-Law," *Straits Times Weekly Issue*, 25 February 1890, 12.

Commissioners revealed the reservations that Commissioners had about the extent of their responsibility and authority over nuisance claims. It was raised in these discussions that affected inhabitants of the neighbourhood already possessed the means of action in the form of the Summary Criminal Jurisdiction Ordinance and penal law, and the Commissioners would face the considerable expenses of litigation by committing themselves under section 182 of the Municipal Ordinance. Further comments suggested that action taken by the Commissioners should be a last resort, and the onus of complaint should fall upon the complainants themselves to write to owners or occupiers of buildings housing said nuisance to reach compromises.[169] It would seem that the will to exert authority and to assert responsibility over private nuisances paled in comparison to provisions for public nuisance abatement in Singapore's colonial legislature.

[169] "Municipal Commission – Victoria Foundry," *SFP*, 13 November 1894.

3.3 The Neighbourhood Noise Nuisance Discourse of 1896

Apart from the legal implications of nuisance, nuisance also had the discursive function of framing expected behavioural norms and spatial claims. According to one newspaper editorial, an intolerable nuisance was posed to foot travellers from permitting the Chinese the indulgence of burning joss paper in public thoroughfares, including shophouse verandahs. Writing that "[t]he Celestials should bear in mind that they are not the only class of people inhabiting this place"[170], this sort of prevailing sentiment reflected concerns with unchecked Chinese monopolization of public streets for religious festivities and assemblies. Similarly, to its unhappy listeners, the entrenchment of unwanted noises in the heard soundscape was concomitant with staking its claim to be produced and to be heard in those same spaces. These noises were, following Bailey's definition, sounds that were out of place, and therefore unwelcome within earshot of the European listener. The potential of these noises to disrupt the treasured sleep of European residents also interfered with the freedom to enjoy comfortable resting and sleeping in their homes. Together with the sonic intrusion that it symbolized, sleepless nights and the deprivation of a quiet domestic environment stood for the nuisance that wayangs presented to the resident and the neighbourhood.

In August 1895, an editorial on "The Music Nuisance" published in the *Mid-day Herald* drew attention to the issue of neighbourly disturbances caused by Chinese festivities in private premises. This was one of the first newspaper editorials of the time period to refer to the language of nuisance, noises, and private activity in a single frame of reference. 'Asiatic' preferences in music that was premised on a "difference of opinion between the Oriental and the Occidental", the editorial wrote, should yield to the commonsensical understanding that no neighbour had a right

[170] "Local and General," *Daily Advertiser*, 20 August 1891, 2.

to disturb or to inconvenience his neighbour even on occasion of death or rejoicing.[171] That being said of the music nuisance that numerous affected individuals were faced with, whom have taken to writing to the papers or seeking help from the police, the editorial argued for greater cognizance of existing laws, writing that responsibility lay with the people to protest against nuisance in a proper manner. Explaining that a successful cessation of nuisance could only be obtained with the necessary legal legwork, current complaints of nuisance would be more appropriately addressed under the Summary Criminal Jurisdiction Ordinance's provision for the abatement of nuisance rather than the 1872 Police Ordinance, which only fixed the limit in which music could not be played in public spaces but not between houses. "If then, instead of writing to the papers and abusing the police, those who feel annoyed would apply to the magistrate, they would certainly obtain satisfaction. But the application must be made and signed by a number of those who are suffering, probably a half a dozen signatures would be sufficient."[172] The *Mid-day Herald* editorial's explanation of the workings of private nuisance abatement exposed an underlying requirement of actionable nuisances: written proof from a significant section of the affected community and the judgement of the nuisance to be out of-character in the neighbourhood, following the logic of the 'locality principle' that permissible levels of interference and tolerance varied by place.

The emergence of consistent usage of 'noise nuisance' can be traced to the beginning of 1896 with a letter penned by A Sufferer published in the *Free Press* on 29 January. Through his letter, A Sufferer aired his grievance about Chinese wayangs held in the vicinity of Scott's Road, Campong Java, and Bukit Timah Road from Sunday till 5 a.m. on Monday morning. A Sufferer's

[171] "The Music Nuisance," *Mid-day Herald*, 31 August 1895, 2.

[172] "The Music Nuisance," *Mid-day Herald*, 31 August 1895, 2.

complaint was specifically structured as one that heard Chinese activities as "desecrat[ing] Sunday within sound of the European Sunday-observing community". He did not see "[w]hy the descendants of a race whose natural instincts in matters musical, are at total variance with that of the European be allowed to violate the day of rest and rational enjoyment observed by the principal civilizing nations". What was described as sounding like pandemonium consisting of cymbals, drums, and the sounds of a horn that made the night hideous ought to be checked by the police and stopped by 11 p.m. on weekdays.[173] Another correspondent Wearied had corroborated A Sufferer's account of the night noises and responded with a show of his support to end the nuisance while another joint letter undersigned by eight individuals also expressed their combined solidarity "in any steps which [they] may take to stop the nuisance"[174] (Table 4), to whom A Sufferer later assured that abatement measures were in progress.[175] On the same day that the joint letter was published, The *Free Press* had also reported that a "considerable number of the inhabitants in the neighbourhood [of Kampong Java and Scotts Road] have banded themselves together and sworn metaphorically to spill the gore of the big tray banger and have Sunday Peace at any price"[176] for the sake of establishing Bukit Timah neighbourhood as a place "where the wicked cease from troubling and the weary are at rest"[177]. The growing sentiment that noise nuisance arising from private wayangs had become increasingly intolerable was also accompanied by demands for institutional intervention from the authorities. On a signed petition from some European residents, the *Mid-day Herald* reported on a cessation of a wayang at Grange Road by the Chief Police

[173] A Sufferer, "A Noise Nuisance," *SFP*, 29 January 1896, 3.

[174] Wearied, "The Noise Nuisance," *SFP*, 31 January 1896, 3; "The Noise Nuisance," *SFP*, 1 February 1896, 3.

[175] Sufferer, "Re Noise Nuisance," *SFP*, 5 & 11 February 1896, 3.

[176] "Untitled," *SFP*, 1 February 1896, 2 & 10.

[177] "Untitled," *SFP*, 1 February 1896, 2 & 10.

Officer on 3 February said to endanger a lady's life, commenting that this precedent would lead to placing power in the hands of the police to deal with private wayangs.[178] Sparked by discussions and dialogues in editorials and letters, these conversations on neighbourhood noise or music nuisances demonstrated noise nuisance's gaining traction as a byword or label for the particular nuisance of the wayang that deprived Sunday-observing residents of nocturnal sleep and Sabbath rest and quietude.

[178] "Local and General," *Mid-day Herald*, 5 February 1896, 3.

Dear Sir, - Kindly allow me space to support the statements made by "A Sufferer" in your issue of Wednesday last. The atrocious noise made by these wayangs in Scott's Road two or three times a week and especially on Sundays is not only a nuisance to those living in the immediate vicinity but really precludes all Sabbath rest to the inhabitants as far away as Mount Elizabeth. I can from my own experience affirm that last Sunday sleep was out of the question to any but very heavy sleepers till near gun fire on Monday morning and weekly the noise becomes worse. I should be glad to join with any other inhabitants in the neighbourhood to see what can be done to stop the nuisance. (Signed) Wearied
Dear Sir, - Re the Noise Nuisance, we shall be glad if you will inform a "Sufferer" that the undersigned are willing to support him in any steps which we may take to stop the nuisance. (Signed) R. von Pustau, S. F. Clark, J. Murchie, S. Behr, Friedrich, G. Schudel, A. Epler, T. Schudel, A. W. Bean
Sir, - Several of your correspondents have been complaining lately of Wayangs and other musical (?) entertainments and of their inability to abate the nuisance. I would suggest a trial of my method, and that is to get up and visit them armed with a small Malacca cane and stop them by sheer force of being a "Britisher"…The new Ordinance is lamentably failing in a most vital respect, and that is where the Chinese M. L. C. scored, for it does not apply to private wayangs, but only to those "open to the public or some section of the public," but perhaps a lawyer might be able to find a chance of a loophole… (Signed) Insombambulist

Table 4: Selected correspondence on noise nuisance, January - February 1896 [179]

[179] From top to bottom in the following order: Wearied, "The Noise Nuisance," *SFP*, 31 January 1896, 3; "The Noise Nuisance," Letter to Editor, *SFP*, 1 February 1896, 3; Insomnambulist, "The 'Noise Nuisance'," *SFP*, 25 February 1896, 5.

An editorial devoted to the subject of noise nuisance appeared in the *Free Press* on 4 February, calling attention to the plight of sufferers of noise in the Tanglin district, the expectation of the neighbourhood to be noise-free, and the need for power to be granted to the police to act with immediacy on noise nuisance complaints. Having written that "a nuisance in fact must be a nuisance in the eye of the law"[180], the editor's pressuring of the colonial administration for stricter regulations of systematic and unduly prolonged annoyances inflicted on residents who required rest "on the seventh day for a new week's toil" was a direct demand for more efficacious procedures to concretely pin nuisances legally and to establish its actionability. The justification for quieter neighbourhoods occupied by day-workers typically toiling for six days in a week was not just a claim of a whole community to rest and quiet on Sunday on Sabbatarian grounds, but also on account of "the public welfare and the value of the *dies non* as a physical and mental respite from the labour of the ordinary business week." Thus, noise made at times reserved for quiet rest posed a threat to residential expectations of work and rest, the removal of which was expected in order to preserve livelihoods and health. That a "nuisance in fact must be a nuisance in the eye of the law" also gestures towards a top-down mentality held of the law, and judicial and enforcement authorities by newspaper readers, editors, and residents of the aforementioned residential areas in the abatement of local noise nuisances allegedly plaguing the neighbourhood.

Subsequent reports and complaints were increasingly grouped under the noise nuisance label, with other newspapers joining in on the commentary on an issue that was in the midst of "assuming a definite term"[181].[182] Covering the 'wayang nuisance', the *Mid-Day Herald* reported

[180] "A Noise Nuisance," *SFP*, 4 February 1896, 2.

[181] "The Wayang Nuisance," *Mid-day Herald,* 7 February 1896, 2.

[182] "Untitled," *Mid-day Herald*, 3 February 1896, 2; Somnabulis, "Noise Nuisance," *ST*, 26 May 1896, 2.

that action had been taken in the direction of checking private wayangs wherever they presented a nuisance to "a large section of the public, or to a neighbourhood"[183]. Complaining of a tom-tom recital in Killiney Road to the police, Sufferer wrote that its organizers should consider that it was a European quarter before repeating such theatrics.[184] E. Nathan, who claimed to have threatened Lee Cheng Yan with legal proceedings, wrote that such noises were formerly mitigated when Superintendent Bell took up residence in the neighbourhood. [185] Nathan also expressed his hopes that Lee, having knowledge of the annoyance that his nightly performances were causing to European customs and habits, would possess enough neighbourly courtesy to stop creating the nuisance before further action was taken against him.[186]

One Who Has Suffered, presumably a European resident from the district of River Valley and Killiney Road and Institution Hill, had written a letter to the *Free Press* on the woes of Chinese festive celebrations, effects which included the "total banishment of sleep during ordinary hours". Titling his letter 'Disturbers of the Public Peace', the correspondent structured the complaint on the basis of the differences between what counted as music to the European and Chinese ears, and the former's love of quietude and the latter's tendency towards noise during festive occasions, which in this case had taken place on the "quiet Sabbath of happier England". Describing the source of the sounds as an intolerable row, monotonous, and "[resembling] the noise usually met with a working smithy", the correspondent added a comparison of European and Chinese nuptials, writing that the "civilised West prefers to spend its honeymoons in quietude and comparative

[183] "The Wayang Nuisance," *Mid-day Herald*, 7 February 1896, 2.

[184] A Sufferer, "An Obnoxious Nocturne, Letter to the Editor, *SFP* (Weekly), 3 August 1897, 12.

[185] E. Nathan, "The Tom-Toms of Killiney Road," Letter to the Editor, *SFP*, 2 August 1897, 2

[186] E. Nathan, "The Tom-Toms of Killiney Road," Letter to the Editor, *SFP*, 2 August 1897, 2

solitude but the enlightened Celestial evidently likes to make as much show and noise as possible during such happy periods"[187].

Apart from the interruptions caused by unregulated wayangs, the noise nuisance discourse also focused on the slovenly state of legislation and inadequate police regulation. The grounds on which residents and the press appealed to hold the Chinese community liable for noise nuisances was built on the stereotyped Chinaman's insensitivity to noise that were naturally at odds with and interfering with European standards of quiet rest at night. Apart from noise-making dispositions, the dangers posed to health of sick persons and working day obligations lent additional urgency to the demands for noise regulation. Remarking on the local correspondence on noise nuisances, an article by the *China Mail* appearing in *SFP* reported on a similar problem in Hong Kong. The sentiment contained in the *China Mail* article gestured toward a kind of European urban anxiety, that equated the hearing of noise to the physical and aural Chinese encroachment on European quarters. The referred to "inroad of the Chinese"[188] as a "disgraceful [breach] of the peace" that legislators and the police ought to have control of mirrored sentiments of European residents in Singapore expressing concern with guarding rest and wellbeing in the correspondence on noise nuisance. The noise nuisance plaguing those residing in Singapore in 1896 followed the common description of being prolonged from night to early morning, made by similar musical instruments, and depriving the affected of sleep. A letter written by A Much Tried Sufferer describing increasing nightly noises by a nearby Hindu temple remarked on the marked increase in noisy character of the neighbourhood over the course of a year, warning that Singapore will have attained

[187] One Who Has Suffered, "Disturbers of the Public Peace," *SFP*, 2 November 1899, 13.

[188] The Noise Nuisance," *SFP*, 18 February 1896, 7.

"an unenviable notoriety as a place of torture for European householders"[189]. Citing day-work obligations again, that the European "looks to have his sleep at night [as] his avocations do not suffer him to lie up during the day…does not follow that he should sit down and suffer from what would not be tolerated in any other civilised place in the world"[190]. The contributors to the noise nuisance discussion in 1896 appealed to expected standards of law and neighbourliness, urging regulation over tolerance, and legislative efficacy over individual action. One article had it that "Doubtless the Chinaman thinks he has his rights, and so he has, but no one possess either the right or the power to inflict pain on another, at least not under the British flag."[191] In another front-page article, it was written that the non-European population in Singapore should be "made clearly aware what are the limits beyond which liberty becomes licence"[192]. The demand for curtailment of liberty stemmed from the perception that Singapore was a British colony "where such large privileges [were] accorded to alien Asiatics"[193]. To some extent, these commentaries reflected a concern about how sustained noise made living conditions very trying for its Europeans inhabitants, and if left unchecked, made Singapore an increasingly hostile home for them. The British community was handicapped in the conditions of residential life, faced by a commanding factor in the life of British communities housing shortage difficulties brough about by the "displacement of the European community by the invasion of the Asiatic"[194], lamenting that house properties were increasingly owned by other resident populations, including the Chinese, the Arabs, the Jews and the Armenians. Because of the laissez-faire attitude of a government that did not adopt an imperial

[189] A Much Tried Sufferer, "The Noise Nuisance," *SFP*, 25 February 1896, 3.

[190] "The Wayang Nuisance," *Mid-day Herald*, 7 February 1896, 2.

[191] Ibid.

[192] "The Noise Nuisance," *SFP*, 4 February 1896, 2 & 11 February 1896, 1.

[193] "The Noise Nuisance," *SFP*, 11 February 1896, 1.

[194] "The European Housing Difficulty," *SFP (Weekly)*, 25 July 1901, 1.

mindset preferential to conserving British "ruling class" wellbeing, comfort, and convenience. Resulting in defencelessness of the European community in property holding. The rising prosperity of certain classes of Chinese, Arab traders, and other non-Europeans have been noted to contribute to rising values of land and property within the first decade of the twentieth century.[195]

The aversion to noise was rooted in prevailing ideas of sleep. Nineteenth-century medical literature and health manuals had already established the sanctity of uninterrupted monophasic bedtime or sleeping hours at night, a sort of exclusive privilege of what Benjamin Reiss has termed "Western bourgeois" [196] sleep initially held by a small minority, as an exception to the general norm of bi-phasic sleep patterns in much of Europe till the late 1800s.[197] The type of monophasic sleep promoted stood in contrast to images of the noisy, restless, never-slumbering Orient. Healthy people with a strong constitution required between six and eight hours each night but sleeping hours were extended for the invalids and the elderly. [198] In the early nineteenth century text *The Influence of Tropical Climates on European Constitutions on European Constitutions*, James Johnson advocated early bedtime as means to preserve one's vigour in the tropical environment, writing that "[w]hatever we detract from the period of our natural sleep, will assuredly be deducted in the end, from the natural range of our existence…"[199] It was also necessary for an individual to be well-rested at night in order to "meet the exhaustion of the ensuing day, as well as to repair that

[195] "Land and House Property in 1902," *ST*, 31 December 1902, 2; "Land and Property Prices in 1903," *ST*, 31 December 1903, 1.

[196] Benjamin Reiss, *Wild Nights: How Taming Sleep Created Our Restless World* (New York: Basic Books, 2017), 122.

[197] Roger Ekrich, *At Day's Close: Night in Times Past* (New York: W. W. Norton & Co., 2005).

[198] *An easy way to prolong life; by a little attention to what we eat and Drink, and our Manner of Living*. 5th ed (London: 1780).

[199] "Early hours here are indispensable. The fashionable nocturnal dissipation of Europe would soon cut the threat of our existence between the tropics. The order of nature is never inverted with impunity, in the most temperate climates; beneath the torrid zone, it is certain destruction." James Johnson, *The Influence of Tropical Climates on European Constitutions on European Constitutions* (London: Mottley and Harrison, 1818), 415 – 417.

of the preceding."[200] Sounds regarded as noise because of its traversing of boundaries of what was perceived as domestic space, which itself was particularly sensitive to noise from cultural associations of peace, privacy and intimacy. [201]Aside from relative spacing apart of low-lying dwellings out in the open-air of the Tanglin and Claymore suburbs, consideration of how sound travelled in these locations should be given to the sound insulation provided by the material structure of the home itself. Windows played and continue to play a fundamental role in the state of sound insulation. It was common practice to keep open the numerous doors that opened onto the the verandah encircling the bungalow, which also functioned as windows, while the wooden doors leading from room to room were also left open, "there being silk screens on hinges attached to each doorway, which, while they maintain a sufficient privacy, admit of a free ventilation throughout the house"[202]. The emphasis of interior furnishing and exterior architecture was to keep air flow optimal for the ventilation of the house, especially in the evenings to allow in the cool night breeze.[203] The windows commonly used appears to be louvered windows, or jalousies, which admit light and air while shielding excessive sunlight and rain.[204] Ernest H. Robinson wrote in the *Observer* in 1933 that the "open windows of summer cause more complaints in that season than are heard during the winter"[205], while another letter-writer to the *Singapore Free Press* expressed the hardship of maintaining an enclosed quiet internal environment in the home "in this country of

[200] James Johnson, *The Influence of Tropical Climates on European Constitutions*, 416.

[201] Thompson, *Beyond Unwanted Sound*, 19.

[202] John Cameron, *Our Tropical Possessions in Malayan India: being a descriptive account of Singapore, Penang, Province Wellesley, and Malacca; their peoples, products, commerce and government* (London: Smith, Elder and Co., 1865), 75 – 76.

[203] Cameron observed that the doors and windows of the beachfront residences and hotels along Beach Road had been thrown open to admit the night breeze. Ibid., 76.

[204] Lee, *The Singapore House*, 33, 45, 73.

[205] "Many Protests. The Wireless Noise Nuisance," *Malaya Tribune*, 22 November 1933, 3.

open windows and verandahs"[206]. Likewise, in 1933 during the first reading of a bill to amend the Minor Offences Ordinance in the LegCo, the Governor spoke of the elevated exposure to noise that residents in Singapore faced, not being in a "position on account of the heat to shut up [the] windows to keep out the noise."[207]

Well into the twentieth century, these frustrations continued to echo common themes expressed in the 1890s. The notion of "making night hideous" continued to be a frequently used exclamation of vexation, conveying the fretting over persistent noisy nights, as newspaper editorials and correspondence consistently employed the hideous night imagery toward conveying the urgent sense of the perplexing situation that the European population was facing. By the second decade of the twentieth century, newspapers were still publishing reports of Europeans meeting violent ends at the hands of natives while trying to abate nuisance on their own initiative, gesturing to their continued state of helplessness and real danger in getting noise to stop.[208] In addition to the earlier noise culprit in the form of the wayang, the hideous noises caused by street vendors and itinerant hawkers operating within earshot of the private residential neighbourhoods were the new noise-makers surfacing in neighbourhood complaints. "These noises continue till all hours – in fact regardless of time and place, rendering otherwise peaceful localities perfect infernos of noise, uproar and discord"[209]. "Peaceful localities" were the desired state of the neighbourhood that was denied to affected residents, much to the suffering caused to their nerves and ears by a night made

[206] Quiet Life, "Annoying Wireless Enthusiasts," *SFP*, 12 January 1933, 8.

[207] The bill proposed to "repeal and reenact in an amended form the section in the minor offences ordinance for fireworks and crackers". "Cracker Firing. Governor On Forms of Torture," *ST*, 6 March 1933.

[208] "The Tomtom Nuisance. Ceylon Planter Killed While Trying to Stop the Nuisance," Malaya Tribune, 6 April 1915, 11.

[209] Peaceful, "Making Night Hideous," *ST*, 14 December 1910, 10.

hideous. Another complainant wrote of the deprivation of peace and quiet as an automatic feature of life in "Oriental cities", having said that:

> *There is not the least doubt that the conditions under which people live in crowded cities nowadays are shattering to the nervous system, and it is not unnatural that here in Singapore, where rest and sleep have often to be courted under exceptionally trying climatic conditions, the cry should go up against the nocturnal noises of the streets.*
>
> *…Oriental cities cannot claim the same peace and quiet enjoyed in the average provincial town or village of England, for the native habits do not allow of this; but there are certain localities where the intrusion of the noisy night revelers, be they Malay or Indian or Chinese, ought to be prevented with a firm hand.*
>
> *The localities where the day workers of the business houses congregate ought to be properly policed and protected, so that they may enjoy their rest at night undisturbed.*[210]

The above excerpt pegs the presence of noise in "Oriental cities" to its Malay, Indian, and Chinese inhabitants while also characterizing it as preventable and unnecessary noise that "ought to be prevented with a firm hand" through the enforcement of the law and existing regulations. Complaints from European residents were not just telling of cultural differences in musical preference, but also gestured to a seemingly irreconcilable schedules of day and night, of activity and repose. According to Michael Roberts, these were based on "specific, overlapping cultural premises attached to the industrial and bureaucratic order of modern times and its work ethic"[211].

[210] "Untitled," *ST*, 26 May 1906, 6.

[211] Michael Roberts, "Noise as Cultural Struggle: Tom-Tom Beating, the British, and Communal Disturbances in Sri Lanka," in *Mirrors of Violence: Communities, Riots and Survivors in South Asia*, ed. Veena Das (Delhi: Oxford University Press, 1992), 247.

Complaints from the nineteenth and twentieth centuries reflected the primacy of the working day, of which the night was preparatory to as a time for repose and recuperation. [212] In 1922, A Victim's *Straits Times*' letter commented on the state of sound insulation in the tropical climate, lamenting that it was difficult to shut noise out as "[s]ounds seem to carry much further [in Singapore] than in more temperate atmospheres and owing to the necessary openness of our houses". Writing that the difficulty in securing restful, quiet nights and days, coupled with the "enervating and non-recuperative" local climate, was to blame for local residents becoming quite 'nervy', the "insolence of the itinerant hawker"[213] was another named culprit contributing to Singapore's noisiness:

> *He has invaded almost every residential neighbourhood and his rattle, or bell, or raucous shout can be heard at most unseasonable hours both day and night. His favourite hour of call in our private roads and drives is the middle of the afternoon just when we are trying to make our children rest…His voice can be frequently heard in the Orchard Tank Road district between midnight and 2 a.m. with a wearying repetition that is enough to send you mad.*[214]

The identification of the hawker as a culprit of noise parallels the earlier outcry against Chinese wayangs. Attitudes shown towards both suggests that hawkers and wayangs were regarded as a persistent and pesky presence in European residential districts, thus being an unwanted and undesirable intrusion that some residents wanted gone, and that sparked local mobilization of sentiment using the press to call attention to. In the above excerpt, A Victim had, intentionally or unwittingly like other letter writers, made a claim to Orchard and Tank Roads as residential

[212] Michael Roberts, "Noise as Cultural Struggle: Tom-Tom Beating, the British, and Communal Disturbances in Sri Lanka," 247.

[213] A Victim, "Nerves and Noises," *ST*, 7 March 1922, 10.

[214] Ibid.

domains that should be kept exclusive for Europeans, and that which should be kept free of the hawker nuisance from its private roads and drives.[215] It was the same type of concern, a suburban anxiety, about Asian encroachment into what were once comparatively more private and exclusive turfs that fuelled the wave of correspondence on noise well into the 1930s.

As observed, references to and complaints of noise nuisances were part of the process of 'problematization', involving the identification and subsequent categorization of noise-making culprits in an ever-expanding classification of noisy activities and individuals. The inclusion of the hawker invasion in the twentieth century to the source of noises that had to be silenced was an expansion on the vilification of Asian-made noise in the previous century. In the last decades of the nineteenth century, the conventional noise-maker was often identified as non-European in custom and ethnicity, and followed associations of the perceived 'Asiatic' love of noise and obliviousness to its noisiness, who was him or herself inherently noisy in behaviour and conduct to begin with. With the turn of the century, the attention that suburban residents and the law paid to the noise of native music shifted – but was not reduced – to hawkers. While new threads of irritation and grievance piqued with the demand for control over newly discovered sources of noise, the emergence of new targets, tropes, and themes in noise nuisance discourse should be analysed concurrently with existing continuities. The emergence of the noisy street hawker or vendor, and the gradual policing and restraining that they were subjected to, re-emphasizes the claim to suburban quietude and points to the rehashing of Oriental associations echoed in the nineteenth century's control of private entertainment.

[215] A Victim had made reference to an announcement barring hawkers from Cecil Street, and had hoped to capitalize on that administrative decision to draw sympathy to his "crusade against noise". A Victim, "Nerves and Noises," *ST*, 7 March 1922, 10.

3.4 Concluding Remarks

In this chapter, I have shown that nuisance in civic appeal and discourse was an "inherently relational and thus embodied category"[216] located within a matrix of social meaning, sonic ideology, and embodied experiences. Collective noise nuisance discourses expressed nuisance as a common neighbourhood undesirable, articulated as a mutual threat that advocated for or galvanized a demonstrably united, although not necessarily coherent, front against. Rather than merely being ugly and unpleasant, the sounds from wayangs was a threatening one, especially if heard at night and on Sundays. More than just being sleep-disrupting noisiness, the unregulated sounds of wayangs added to the difficult and trying circumstances of adapting to colonial living conditions. Apart from the unsavoury qualities of Asian music heard at night, uninhibited organizing of wayangs signified an unrestrained Chinese liberty above the reproach of the law. Examining the aspects of these particular neighbourhood noise nuisances has also offered renewed insights into the ways that residents articulated their identity and residential rights as a colonial class of Europeans or British subjects through implicit and deliberate claims to space and time. The occurrence of nuisance as a problem needing to be addressed, checked, mitigated, or remedied reveals, firstly on the surface, the aural thresholds held by complaining individuals, secondly, the unfolding dynamics between racially distinct groups in the same residential neighbourhoods, and thirdly, points to the nature of the relationship between European residents and the colonial administration.

The first and second revelations were largely co-constitutive and were also sensitive to conditions of the neighbourhood, including its changing demographics. Appeals for the

[216] Mariana Valverde, "Seeing Like A City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance," *Law & Society Review* 45, no. 2 (2011): 294.

preservation of quiet nights and Sundays were a distinct demand reflecting a collective hearing of affected European residents, which cried out for the removal of sounds that were inconducive to that desired state of quietude. These sounds associated with the Orient and the tropics presented a direct antithesis to the desired "idyllic peace and quiet of the rural soundscape"[217] forged in eighteenth-century pastoralism and the composed quietude equated with civilised modes of living. Beginning with the Victorian elite intellectuals, this attitude trickled down to the aspiring middle-classes for which "noise was an uncultured, lower-class nuisance, which threatened the privacy, respectability, and health"[218] sought for.[219] The ease of substituting the noisy 'Asiatic' for the noisy urban poor in the metropole and the secluded middle classes for the European residents became integral to ideological class and spatial divisions maintained by a European minority determined to stabilize reinforced notions of difference and removal from the larger Asian colonized population. The removal or amelioration of the perceived damage caused by the affecting nuisance is seen, or in this case heard by the complainant section of society as an indication of approaching the ideal state of the neighbourhood it had hoped to naturalize in the immediate vicinity. Nuisance, as the "common law of competing land use"[220], thus also functioned as an expression of competing claims to space associated with specific identities and allegiances.

The meanings of neighbourhood or domestic noise nuisance emerging from residential discourse within this chapter's analysis enriches insights gleaned from the interpretations of noise in official circles detailed in the previous chapter. As discourses outlining the detection of the illegality of noisiness, consideration of how residents defined noise and appealed to the law's

[217] McCallum, "Conflict and compromise," 318.

[218] McCallum, "Conflict and compromise," 319.

[219] John M. Picker, 'The Soundproof Study,"; Simpson, "Sonic Affects and the Production of Space".

[220] Brenner, "Nuisance Law and the Industrial Revolution," 406.

definitions and provisions to address noise are crucial to a more holistic understanding of the applications and limitations of colonial logic with respect to the noisiness of Asian music. The third revelation on the relationship between European residents and the British administration examined in this chapter provides the foundation for the next chapter's analysis of legal applications, in which the predominantly public outlook in nuisance abatement in the law of the Straits Settlements emerges as a limitation to charges of private noise nuisance.

Chapter Four: Private Noise Abatement, 1890s – 1930s

As far as legislative documents and the accompanying discourse lay reasonable testament to, legislative consolidation of the Straits Settlements nearing the end of the nineteenth century cemented both the unacceptability and illegality of unlicensed music and theatric amusements that were non-European in nature. Apart from the increasing mandate on licensed behaviour in public, private, and quasi-public spaces, the state of the law laid down between the 1870s to the mid-1890s also gave the impression of being an all-encompassing, all-round restriction on both street and private activities involving native and 'Asiatic' music. The very broad scope of illegal times, places, scope of activity, and instruments specified by private music and performance legislation might suggest that the actions of the colonized were subject to a disproportionate amount of policing and legal penalties. For the colonized and the non-European under the colonial administration in Singapore, this meant markedly higher odds for receiving disciplinary penalties, charges, court summons, and even incarceration for having committed an ever-expanding list of 'punishable' offences in public and private spaces that involved unsanctioned music and the production of noise. As far as colonial law in theory and official discourse was concerned, the scope of lawfulness and legality appeared to have been narrowed for the colonized.

Yet, that very same broadness also contained loopholes for eluding the frameworks of judicial interpretation. Broad definitions and interpretations of statutory legislation also meant a certain amount of ambiguity existed in those very same laws that were intended to be an all-encompassing cap upon targeted activities. When and where music permits were exceeded or absent, street arrests and charges on private house offences by the police often carried on unencumbered according to the enactments of new legal amendments. Newspapers were replete with frequent reports of fines, arrests, or summons made to culprits of unlicensed music or

theatrical activity (by definition, this meant that vocalized actions could also be penalized, as in singing or the appearance of yelling or shouting). However, civil actions capitalizing on recourse to the law to abate and/or to seek compensation for local noise nuisances were, in practice, complicated by a host of other factors, one among them being the subjectivities of hearing, tolerance, and that which contributed to the perception of noise. In several cases receiving discussion in this chapter, recourse to existing legislation for a redress of grievances localized in the residential neighbourhood was not a sure-fire method for the assuage of that grievance, even in cases involving a European complainant and a non-European defendant, where the expected balance of colonizer-colonized power might predict outcomes favouring the European resident's case or legal argument. Other legal implications and interpretations involving property and private nuisance also interfered with individual actions against noise and limited individual resort to the existing law on illegal music. At the same time, perceptions of what the law and the various authorities were responsible for were expressed in tandem with assessments of efficacy of individual, community, and legal action for addressing and abating noise nuisance. Court deliberations of civil actions thus reveal how the hearing of noise framed certain behaviours as inappropriate at particular times and places in racial and class framings, which were then represented and submitted to authorities with expectations of the law, and suggest how these expectations encountered various limits to their claims of nuisance.

4.1 Licensing: Intended and Unintended Consequences

Where the legislation of the 1870s was concerned as chronicled in chapter two, the licensing system that governed moving processions and stationary theatrical performances featuring music seemed a likely fulfilment of legislative agenda and public demands. Under the licensing system, individuals faced penalties both for failing to obtain a permit, or for non-abidance to the terms of a permit already granted. The prohibition of certain instruments in public streets under police laws of the 1870s had also outlawed spontaneous music playing in areas accessible to the public. One early example in 1873 involved the fining of Choo Ko Seng and Sa Ah Chow for performing music using blowing instruments in North Bridge Road at 8 p.m., which would have continued uninterrupted to an admiring crowd if not for a passing police corporal, curiously described as "a man less skilled in the science of music" according to the newspaper report.[221] As the table below shows, producing music or holding a wayang performance contrary to the terms of license or permit could mean any number of transgressions considered to be a punishable offence, and this included exceeding of time limits or prohibited hours, commencing the performance before the set time, or playing in places other than that specified by the permit, which most often were public streets (Table 5). Under the terms of sections 19 and 21 of the 1872 Summary Criminal Jurisdiction Ordinance, it was an offense to play music contrary to the terms of the license granted or without written permission respectively, with five musicians involved in the Thaipusam festival of 1896 being acquitted of the latter charge but fined $10 each or fourteen days of imprisonment for the charge of the former, having used other instruments that were not specified in the license given for

[221] "Singapore Police Court Before Captain Wallace," *ST,* 30 August 1873, 2 – 3.

the use of six drums and six flutes.[222] In a later appeal, several arguments were laid before Chief Justice that this was a defective conviction. The representing counsel G. P. Stevens had argued that it was not the musicians but the trustee of the temple Alagappa Chitty who should be held responsible for the proper conduct of the procession, to whom the license had been issued to by the police. Stevens also demonstrated the faulty aspects of the conviction and the license in question, that the first charge of using musical instruments "without a license" according to section 21 of the ordinance by Chief Police Officer A. L. Stewart was not an appropriate one, had also failed to set out what instrument each defendant had played, and that qualifications on the license limiting usage to certain streets was *ultra vires*.[223] This methodical break-down of a defective conviction suggests that the application of this specific law for proper convictions required law enforcers to be knowledgeable about the law that they were exercising. Other than a familiarity with separate clauses of the same law, police officers were held responsible for appropriate on-scene assessment of licenses and other facts of the activity in question. This meant that incorrect convictions or wrongful arrests could happen, and initial charges could be dismissed if proven faulty or misplaced. In the same event, members of the band of the Maharajah of Travancore were faced with a complaint of using too many instruments, had their instruments confiscated, then arrested and locked up for two hours despite possessing a license.[224]

[222] "The Taipusam Musicians," *SFP*, 12 February 1896; "Magistrate's Appeal," *SFP*, 28 April 1896, 12. Clause 2 of Section 19 specified penalties for unlicensed music or contravention of terms of license, while clause 8 of Section 21 specified for playing of specific instruments without written permission from the police. See table 3 in chapter 2.

[223] "Magistrate's Appeal," *SFP*, 28 April 1896, 12.

[224] "Confiscated Drums," *SFP*, 3 February 1896.

Table 5: Collation of charges for illegal music usage and wayangs, 1873 - 1928

YEAR	CHARGE	SENTENCE
1873	**Choo Ko Seng** and **Sa Ah Chow** – For creating disturbance by blowing instruments [225]	Choo fined $1.50 and additional $5 for assaulting police corporal; Sa discharged
1877	**Wong Pek Wong** – for singing and causing to be used music in a public thoroughfare contrary to terms of a license granted [226]	Fined $1 and costs
1884	**Low Ah Tye** and **Tah Ah Seng** – for playing music in the street (Hong Kong Street) [227]	Fined $1 each or four days' rigorous imprisonment
	Yeng Lam – playing music near a public thoroughfare without a license, and exceeding time limit on *wayang* license [228]	Fined $5 and costs
1894	**Narayan Chitty** – "indulging in music" along Orchard Road contrary to terms of permit during Taipusam[229]	Fined $5 and costs
	Goh Lian – playing music in a public thoroughfare contrary to terms of permit [230]	Fined $5 and costs
1896	**Goh Cho Han** – holding wayang without permit [231]	Fined $25
	Thaipusam Musicians – using instruments without license [232]	Discharged
	Two unnamed Chinese – exceeding time limit of permit for wayang [233]	Fined $25 each
	Two unnamed Chinese – allowing theatre performance to be carried on during prohibited hours , exceeding twelve o' clock time limit of permit[234]	Fined $50
1898	**Lim Tiang Seng** – playing a fiddle in Arab Street without a permit [235]	Fined $0.50
	Two unnamed Chinese – playing music in Arab Street [236]	Fined $5 each or seven days' rigorous imprisonment

[225] "Singapore Police Court Before Captain Wallace," *ST*, 30 August 1873, 2 – 3.

[226] "Police Court," *ST Overland Journal*, 7 July 1877, 5.

[227] "Police Court," *ST Weekly Issue*, 26 January 1884, 4.

[228] "Police Courts. Before R. S. O'Connor, Esq., Senior Magistrate," *ST*, 5 March 1884, 3.

[229] "Police News," *Straits Chinese Herald*, 30 January 1894, 2.

[230] "Police Court Items," *Daily Advertiser*, 3 May 1894, 3.

[231] Those Noisy Wayangs," *ST*, 28 January 1896 & "Local and General," *Mid-day Herald*, 29 January 1896.

[232] "Magistrate's Appeal," *SFP*, 28 April 1896, 12.

[233] "Local and General," *Mid-Day Herald*, 5 February 1896.

[234] "Untitled," *SFP*, 27 February 1896, 2.

[235] "Local and General," *Mid-Day Herald*, 10 February 1898, 3.

[236] "Local and General," *Mid-Day Herald*, 4 March 1898, 3.

	Three unnamed Chinese – playing music after midnight at a *wayang* at Lavendar and Victoria Street [237]	Discharged, fined $5 and costs, fined $10
1899	**Choon Ah Leong** – playing music in public without a pass [238] **Sim Wi Siap** – playing music in public contrary to terms of license [239]	Fined $15 Fined $10 and costs
1900	**Three unnamed Chinese** – carrying on a wayang in Campong Martin till 5 in the morning, with previous violation of permit [240]	Fined $15 each, and an additional $40 with 14 days' imprisonment
1903	**Unnamed Chinese** – exceeding time limit set by wayang permit in South Canal Road[241]	Fined $25
1904	**Five unnamed Chinese** – banging drums and cymbals in a prohibited thoroughfare, behind the Police Court [242]	Fined $2 each
1906	**Yap Ipoh Seng** – allowing music to be played at a Chinese procession on Selegie Road without an authorized permit for music [243]	Fined $20 and costs
1907	**Chinese towkay** fined for commencing wayang an hour earlier than permitted [244]	Fined $40 and costs
1914	**Teo Ang Chan** – conducting wayang outside of hours stated in permit at Bukit Timah Road [245]	Fined $30
1928	**Unnamed Chinese headman** – carrying on a wayang without a permit[246]	Fined $35.50

[237] "Local and General," *Mid-Day Herald*, 16 September 1898, 3.

[238] "The Police Court," *ST*, 18 March 1899, 2.

[239] "Police," *SFP*, 13 May 1899, 2.

[240] "Untitled," *ST*, 5 September 1900

[241] "Untitled," *ST*, 7 January 1903.

[242] "Chinese Musicians Fined," *SFP*, 4 February 1904,

[243] "Illegal Music On The Public Road," *Eastern Daily Mail and Straits Morning Advertiser*, 31 May 1906, 3.

[244] "A Towkay Fined," *SFP*, 7 March 1907.

[245] "Topics of the Hour," *Malaya Tribune*, 21 February 1914; "Police Court Cases," *Malaya Tribune*, 26 February 1914.

[246] "Accuser in Dock," *Malaya Tribune*, 23 November 1928; "Serious Allegation," *SFP*, 12 December 1928.

The licensing system alone was not sufficient to ensure the complete silence desired by complaining residents. It was inevitable that illegal exceeding of time limits or unlicensed activity could go on unmonitored, either by deliberate omission of the police or for reasons of insufficient manpower. The supposed inefficiency and indifference of native constables were a regular highlight in the local press that indicated the want of police supervision in certain municipal areas.[247] The Orchard Road district's poor patrol coverage and resultant under-reporting of domestic noise disturbances mentioned in the previous chapter also comes to mind. This was not an unlikely scenario given the preoccupation of an overworked and short-handed police force that was facing an overwhelming number of other priorities and issues of internal discipline and organization. Wayangs and other gatherings in private premises that have supposedly continued unmonitored was a stark contrast to the situation surrounding street offences shown in Table 5. The fining of a guitar player for strumming his instrument at 1 a.m. at North Bridge Road was framed by the *Straits Times* as a ludicrious judgement when "numerous European residents in a district not too far removed from the scene of our unfortunate musician's performance were kept awake till one o' clock on the same morning by the barbarous ructions called Chinese music incidental to a celestial merry making in Telok Ayer Street"[248]. Despite being heard for as far as a mile away, the exceeding of the permit's usual time limit beyond midnight had proceeded without any legal repercussions even with a police station in the vicinity of only a few hundred yards, the newspaper had reported. Noise originating from unregulated sources continued to be a source of agony well into the twentieth century; The *Straits Times* had advocated the issuing of licenses with the greatest caution in 1923, particularly in residential districts, as a result of nightly complaints

[247] "Police Patrols," *SFP*, 17 December 1890, 2.

[248] "Untitled," *ST*, 13 May 1905, 4.

from residents of Newton Road of the nuisance of a Chinese wayang.[249] As the discussion of legal cases in this chapter would suggest, the act of licensing proved to be a double-edged sword when the impression that ongoing musical activity was likely to be legally sanctioned contributed to the disinclination to initiate private action in the face of a noise nuisance.

[249] "Untitled," *ST*, 20 January 1923.

4.2 *Craufurd v. Wee Soon Choo*

In March of 1898, Captain Craufurd, then Master Attendant of Singapore, appeared as a complainant in a series of hearings presided by Second Magistrate Littleton Edward Pipe Wolferstan in the district court to support a summons against the continual beating of drums and gongs at 47 Selegie Road from Wee Soon Chew's residence, which had caused discomfort to and nightly disturbance of Craufurd's sleep. For a few years, Wee was in the habit of employing a Javanese band that he paid $800 for in his property for personal enjoyment of their music which he found soothing and promoting rest.[250] The alleged music was played at night and often kept up till 3 or 4 a.m., persisting for a few months at a volume that had caused great annoyance to Craufurd and manager of the Telephone Company John Sibbons in their shared residence at the adjoining 22 Wilkie Road, located less than 100 metres from Wee's property at 47 Selegie Road, which were two parallel roads in the vicinity of Mount Emily near the Rochor district.[251] Residents living in the vicinity, some of which appeared as Craufurd's witnesses for the prosecution, were variously called to court to give evidence of the musical activity labelled a public nuisance in Craufurd's summons. These hearings reveal a range of attitudes toward the music adopted by several European and Asian residents that could be summed as various key reactions. There were those who disliked the music and found it an annoyance or nuisance but did not have their sleep disturbed, thus not being themselves inclined to take any action against it. Others similarly found the music to be disagreeable and noisy, but did not possess the means of acting on their grievance or had

[250] "Music or Nuisance? The Magistrate Listens to a Chinese Band," *ST*, 22 March 1898.

[251] "Music or Nuisance! Craufurd v. Wee Soon Choo," *ST*, 5 March 1898, 2; *Plan of Singapore Town Showing Topographical Detail and Municipal Numbers*, c. 1893, Hon Sui Sen Collection, acc. no. SP007293_4, Sheet 4. National Archives of Singapore.

imagined that the playing was in fact legalized. Lastly, others found the music pleasing and of a non-disturbing nature, on its own or as compared to other sounds heard in the area.

Three witness accounts offer some insight into the challenges to individual action for local noise nuisances. Charles Taylor, Charles Webb, and Laurence Perreau described their reasons for their continued tolerance as they refrained from direct confrontation or community action during the period of time the noise was made. Taylor, a Tanjong Pagar Dock apprentice engineer residing in Niven Road, had not confronted the noise-makers at Selegie Road as he could not obtain unity in a show of support to do so. While the noise had disturbed him for a few days, it only woke him up in times of illness, and that, though he suffered disturbance and had considered confrontational action, was not sufficiently motivated to take out a summons.[252] Taylor's experience points to the occurrence of this phenomenon: firstly, that noise is always tolerated up till a certain point, and before that inertia to take action exists, and secondly, that certain individuals required what they perceived as a group backing to lodge a complaint and launch summons actions. Although the noise had kept his family and children awake for four months, at times lasting till gunfire in the morning, Webb, another engineer living in Niven Road, refrained from confrontation or drawing a summons.[253] Like Taylor, Webb had believed that the noise-makers would pay no heed to his personal request. Unlike Craufurd, however, Webb's financial status appears to have prevented him from taking out a summons against the defendant, suggesting that both personal finances and a show of unity or community backing in civil cases were needed for what was likely to be a costly summon procedure. Similarly, despite occasionally having his sleep disturbed at 4 a.m. by the

[252] "Music or Nuisance! Craufurd v. Wee Soon Choo," *ST*, 5 March 1898, 2.

[253] Newspaper article seems to suggest that Webb had been living the closest to the defendant's house.

sound of beating drums, Perreau, an Import Office clerk who had his abode in Selegie Road, did not attempt to stop the nuisance. The newspaper reported that:

> *It was a big abominable gong…and it was one which considerably disturbed [Perreau] when in bed. He was not a sleepy individual, but he knew that he had been disturbed from his rest. He was born near the spot, and the nuisance, had to his knowledge been going on for years, but he did not complain [assuming the noise was sanctioned by police pass]. The Malay Club is in the neighbourhood, and music often is heard from there. That did not disturb him and he could not hear the band from the Tanglin Club, so he could not be disturbed by that.*[254]

From Perreau's perspective, the habitual night music from Wee's property was a regular occurrence of the soundscape of Selegie Road, that also included music from the Malay Club and Tanglin Club, that he was accustomed to. At times when the music from Wee's hired band disturbed Perreau, he was disinclined to stop the nuisance from the belief that it was permitted by the police.

Hearing of the case was resumed on 12 March, when additional witnesses were brought in for examining and strong testimony was given in support of the music being tolerable, pleasant even, and not at all to be considered a nocturnal nuisance by majority of the witnesses. For instance, Ferderick Lederer, managing director of Katz Brothers Limited, indicated that the volume and nature of the music being complained of – three hundred yards away from where he lived – was not nearly disruptive enough to give him cause to initiate any action. The noise had occasionally prevented him from going to sleep but did not cause him to wake from slumber. Lederer also spoke

[254] "Music or Nuisance! Craufurd v. Wee Soon Choo," *ST*, 5 March 1898, 2.

of lacking personal time to pursue the restriction of "native music" from Selegie Road or the Malay Club, nor to take up the same trouble to stop the playing of pianos in Wilkie Road.[255] Another two witnesses who were marine engineers living in Wilkie Road, A. J. Miranda and William Hockstadt, had been putting up with the music coming from Selegie Road. Miranda had, like Perreau, been under the impression that Wee had a police permit, while the noise was not loud enough to have disturbed Hockstadt.[256] A clerk going by the name of Dris who resided in Niven Road had also found the music to be a nuisance, but one that did not keep him awake at night. According to the *Straits Times* report of the hearing, he "had never complained about the music, and could not say whether it soothed him; but it was a noise, nevertheless. He heard it last night, but it was not louder than usual."[257] As what Dris would consider to be tolerable noise, he thought that the music from Wee's property did not warrant confrontation or complaint. At the next hearing on 22 March, George Duncan McIntyre of Niven Road testified of the "sweet toned and harmonious" nature of music's that he found pleasant to listen to after a day's work, while Edward Evans of Nevon Road did not find the music to be an annoyance or disturbance of his sleep.[258]

As no existing complaints had been lodged and most witness testimony had not characterized the Javanese music played as overly loud, unpleasant, or affected an unreasonable amount of residents, the odds of a successful conviction under a public nuisance charge were low. Calling it "one of the weakest cases which had ever been brought before the court"[259] on the grounds of a public nuisance charge, the defence for Wee argued during the final hearing on 22

[255] "Music or Nuisance!," *ST*, 12 March 1898.

[256] Ibid.

[257] Ibid.

[258] "Music or Nuisance? The Magistrate Listens to a Chinese Band," *ST*, 22 March 1898.

[259] "Music or Nuisance?," *ST*, 23 March 1898.

March that most of Craufurd's witnesses were his immediate subordinates, which made the case more of Craufurd and Sibbon's personal grievance and less so of the general public. The defense counsel Hoffmeister had also remarked that:

> *If Captain Craufurd cared to live in the neighbourhood of Wilkie Road, he must put up with these musical strains, and tolerate them with a good grace; if they grated upon his tender susceptibilities, then all he had to do was to leave the neighbourhood, and to seek another and a quieter spot for repose after his day's work was done.*[260]

Hoffmeister's argument, perhaps reminiscent of the 1870s legislative debates concerning the racialized segregation of musical activity, sings the same tune about neighbourhood character determining noise's acceptability. In the defence's opinion, the charge of committing a public nuisance by "loud and incessant beating of drums and gongs in the neighbourhood of Wilkie Road"[261] could not sufficiently "put an end to what was considered by the majority of the neighbours around as soft, sweet music calculated to drive sad care away, and lull an over-taxed worker to sleep"[262]. The magistrate Wolferstan thus concluded that the central question that remained of this case was over the nature of the nuisance as a public or a private one. For that, if at all a private nuisance, the complainant could go to the Supreme Court and get an injunction restraining the defendant's band from playing at certain hours.[263] The logic that Wolferstan applied following the precedent set by *David v. Hooper*, which ruled that "powers given to a Magistrate by section 46 of Ordinance XIII of 1872 to abate nuisances, applie[d] only to cases of a public

[260] "Music or Nuisance?," *ST*, 23 March 1898, 3.

[261] Ibid.

[262] Ibid.

[263] Ibid; "Local and General," *Mid-day Herald*, 23 March 1898.

nuisance, and [did] not cover the case of a private nuisance."[264] Private nuisances were to be dealt with by civil process and not, as Craufurd had done, under police law, private nuisances of this particular instance being no offence under police law.[265] In light of the municipal commissioners' encouragement for affected individuals to invoke the Summary Criminal Jurisdiction Ordinance or to reach personal compromises with neighbours that were causing grief, *Craufurd v. Wee Soon Choo* and *David v. Hooper* expose the loophole in the 1872 ordinance for complaints of private nuisance. This, in addition to the other limits to individual confrontation met by those attempting to take the law into their own hands, point to the conundrum that aggrieved residents faced in private or neighbourhood noise abatement.

Craufurd v. Wee Soon Choo demonstrates the interplay of several factors influencing the judicial ruling of a localized noise nuisance. In particular, the ruling that private nuisance was not penalized under the same provisions as public ones hinged upon the subjectivities of hearing and different attitudes to whether Wee's night music counted as noise. These include varying degrees of tolerance, definitions of music and musical rhythm, and the actions taken and procedures for determining if a noise nuisance was a public or a private one. The nature of Craufurd's complaints and prevailing neighbourhood sentiment gave the appearance of this being *his* case and not that of the general public, for which the 1872 ordinance could not address.[266] Unlike the stir caused of the 1896 wayang nuisance question with its small but definitive semblance of concerted support, or the Grange Road petition, it appears that the absent show of unity through signed collective petition had not persuaded the magistrate in Craufurd's favour nor gotten any police attention.

[264] David v. Hooper (1898), in *Straits Settlements Law Reports*, 57.

[265] "Music or Nuisance?," *ST*, 23 March 1898, 2.

[266] "Music Hath Charms," *SFP*, 24 March 1898.

The determination of the affected number of persons as a class of the public in nuisance establishes the crucial role that the spatiality or the radius of *heard* noise played in its character as a public or private nuisance. This assessment of the extent of damage or interference highlights the difficulty of marshalling sufficiently majority opinion, based on similar tolerance levels, to justify that harm or annoyance had been caused to the "neighbourhood", or "neighbouring community", and the extent to which all persons comprising the neighbourhood are affected. If, for instance in Craufurd's case, there were no prior reports of nuisance and witnesses were more tolerant compared to the complainant, the complainant's summons of public nuisance seemed unlikely to hold. The line that separated private from public nuisances, although a subjectively formed and routinely changing one couched in spatial and proprietary terms, meant vastly different implications and culpabilities in noise abatement suits and measures.

4.3 *Paxon v. Kassim*

Another obstacle encountered by residents eager to attempt a private arrangement or confrontation was private property rights. In May 1908, having been disturbed by the Malay music coming from the house of Kassim, H. C. Paxon and G. H. Hone had entered the house at Geylang Road a quarter mile away from where they lived at 471 Geylang Road, allegedly in agitated and hostile fashion, the result of which was a trespass charge brought against Paxon. On the Europeans' visit to the house, Kassim had told Paxon and Hone to obtain a summons, after which they returned with a police officer and the music-playing ceased. Before the Fourth Magistrate in the police court in 1908, the defence for Paxon had argued that the defendants' intention of enquiring what the music was for and how long it would last constituted reasonable cause for trespass.[267] The defence and prosecution disagreed on the sufficiency of cause for trespass, with the latter arguing that an offence had been committed while the former maintained that the character and timing of the noise itself that had motivated the defendants to pursue action in the first place – and the intention to stop a sleep-disrupting noise continuing past 10 p.m. – was enough cause. Despite testimony of hostile interactions with the Malays and the magistrate holding that there insufficient cause for trespass, Paxon was eventually granted the benefit of doubt by the magistrate and acquitted.[268]

Two separate incidents of trespassing charges incurred through attempts to stop night barking bear some resemblance to *Paxon v. Kassim* and illuminate the plight of sufferers of neighbour noise nuisance. On 9 July 1918, C. E. Harston was charged with criminal trespass of S. L. Thompson's house at 87 Grange Road, when the former attempted to keep the latter's dog quiet. According to the prosecution, Harston had allegedly entered Thompson's compound armed with

[267] "After the Concert. Mr. Paxon Acquitted on the Charge of Wilful Trespass," *ST*, 29 May 1908, 7.

[268] Ibid.; "The Charms of Music – Malays Disturb Europeans' Sleep," *SFP*, 4 June 1908.

a gun intending to give their dog a fright and had then interacted with the Thompsons in a manner described as offensive. Harston had testified in court that the dog's barking had presented a "great nuisance" since he had moved in a month ago. Having been disturbed by Thompson's dog's continuous barking between the hours of eleven at night and one in the morning, Mrs Harston had made a personal complaint to Mrs Thompson the day before the trespass occurred. Harston had attempted to put a stop to the noise when the dog resumed its barking the following night on behalf of Mrs Harston, who "like many ladies in this climate was possibly neurotic and was disturbed by noises, which she would not have been affected by in a northern climate"[269].[270] Another charge of trespassing involving dog barking was publicized in 1939, when a European government officer William Edward Rigby paid a personal visit to the house of a Chinese man Toh Chwee Hup at Balmoral Road at midnight on 20 December to complain of dogs barking. Rigby had alleged that he had been disturbed by the barking for almost a year since he came to live in his residence at Goodwood Hill in March in 1938, to the point of being able to recognize the bark of the Tohs' dog.[271] Magistrate in the Police Court Conrad Oldham decided to acquit Rigby, having declared that the entire case was a trivial one and expressed his hopes that the disturbance would end.[272] The subtitle that the *Free Press* decided to go along with for the report was "Government Man 'Acted In Reasonable Way'", echoing the verdict given by Oldham that Rigby acted on reasonable grounds and in a reasonable manner towards the disturbance.[273] What stands out in the Rigby case

[269] "Alleged Criminal Trespass," *ST*, 9 July 1918, 8.

[270] The summons was eventually withdrawn since Thompson had accepted an apology from Harston for the annoyance caused on his property. "All Bark. No Bite," *SFP*, 10 July 1918, 10; "Over a Dog. Alleged Criminal Trespass," *Malaya Tribune*, 11 July 1918, 7; "All About a Dog," *ST*, 11 July 1918.

[271] "Trespass Summons Fail: Dogs Which Barked At Night," *Morning Tribune*, 14 February 1939, 18.

[272] "European Acquitted On Criminal Charge," *SFP*, 14 February 1939, 9.

[273] Ibid.

was the documented response of Toh when Rigby had asked for the dogs to stop barking, that "he could not stop the dogs from barking and that [Rigby] could go and complain to the police if he liked"[274], and the factors contributing to Rigby's acquittal.

The acquittal of accused parties facing trespassing charges seems to be common outcome, at least for the cases examined, suggesting that the act of entering a house was cause enough for a charge but not a conviction of trespassing, perhaps hinting at the relative triviality of such domestic or private cases of discord over noise in the court. These cases suggest that an attempted private resolution of a conflict was met by an opposing force in the form of private rights of ownership and property, wherein one could be accused of trespassing without obtaining the permission to enter another's private premises. This presented a significant conundrum for individuals who wanted to hop on over to a neighbouring house to demand for quiet instead of going to the police, lodging an official complaint, or requesting a magistrate summons. One did not, as it seemed, have many options apart from seeking formal and potentially conflict-instigating police authority, an act that could be perceived as an aggressive or overtly confrontational one.

[274] "European Acquitted On Criminal Charge," *SFP*, 14 February 1939, 9.

4.4 Edward Steele and Tanjong Katong

Between 1910 and 1912, a resident at Tanjong Katong by the name of Edward Steele had filed several injunctions against two sources of noises that had disturbed him where he was living. In 1910, the culprit responsible for that noise was a gramophone, while in 1912, he was at the receiving end of noise from a Asian music performance. Though the charge summoned to and examined in court differed, both cases in 1910 and 1912 revolved around sounds made in a private home and space, sounds that Steele heard, recognized, felt disturbed by, and identified as noise, and which he acted on individual impetus to attempt to stop, either by an application for a summons or private injunction or physical visitation. The contrast between the two scenarios reveals a number of insights into individual attempts to get noise to stop in the locality of the residential neighbourhood. Briefly surmised, although both types of sounds could be categorized similarly as that of private entertainment, the cases implied that noise generated by a gramophone could been framed and interpreted differently in court than that of Asian music.

In 1 November 1910, W. S. Paley, Hoh Chuan Seng, and Hoh Swee Kiat appeared before the Chief Justice of the Supreme Court to show cause why they should not be committed for contempt of court by disregarding injunctions restraining them from committing nuisance by playing music in their house at Tanjong Katong, injunctions that Edward Steele had on two separate occasions took against first, Hoh Chuan Seng, and then a few weeks later, against Paley. Paley had moved into the Hoh's premises as their tenant a few weeks after the first injunction had been served, and had, allegedly, played loud and continuous gramophone music that were of "low class music hall songs"[275] with questionable and uncouth content. In court deliberations in

[275] "Musical Neighbours," *SFP*, 2 November 1910.

November, the prosecution on Steele's behalf had also alleged Paley of having ill-natured interactions with Steele, such as having staring matches, laughing derisively at Steele, and, on one occasion, pulling up his doorway screen to yell at Steele: "Now we raise the curtain and the show will begin."[276] Apart from the aggravated behaviour displayed by Paley, the class of the songs played from Steele's gramophone became the subject of interest during court examinations. Despite Paley's denial of the allegations against him, Steele's prosecution lawyer T. J. M. Greenfield and witness W. Dunman – a resident of Tanjong Katong who had submitted an affidavit in support of Steele's allegations, had alleged that no soft music had been played, a witness statement apparently supported on account of Dunman's experience in discerning between low and high class songs.[277] Dunman had also said that he was able to distinguish the words of the songs played at a distance of 200 feet.[278] Steele had also asserted that the gramophone music was often accompanied by loud singing and shouting. With all the evidence and statements having been served, the magistrate decided that on account of Paley being in contempt of court, disregarding the injunction against him, and keeping up the "unreasonable noises", he should bear the legal costs of the case and be committed to civil prison.[279]

Thus, three main factors account for Paley's conviction: circumstantial evidence of the manner in which the gramophone was being played, the disregarding of a previous injunction, and showing of contempt in court by persistently offering statements in contrary to the supporting evidence. Firstly, it was not the playing of gramophone music per se that could be construed legally

[276] "Life at Tanjong Katong," *ST*, 1 November 1910, 7.

[277] "Musical Neighbours," *SFP*, 2 November 1910.

[278] "Musical Neighbours," *SFP*, 2 November 1910.

[279] The sentence was initially decided to send Paley to prison until "he purged the contempt", but the presiding magistrate had proposed not to mete out harsh judgement, deciding that civil prison term and paying costs would be sufficient. "The Gramophone Case," *ST*, 2 November 1910.

as inappropriate, but the mannerism of playing it. As the court examination showed, Paley's way of playing the gramophone was judged and interpreted to be in the "loudest and most unreasonable manner"[280]. Secondly, the continued non-compliance that Paley showed was a blatant dismissal and breach of that official injunction for the noise to stop. Thirdly, Paley had not shown any attempt to apologize or to show remorse for past actions, which would have given him a reduced sentence of serving costs following court instructions for cases of contempt. Instead, Paley's behaviour and statements in court had resulted in the magistrate determining that the defendant had "departed from the truth" in court.[281]

While Paley had been served a sentence, the court had handled the Chinese landlords in a vastly different manner. For Hoh Chuan Seng and his father Hoh Swee Kiat to be held accountable for the noise caused by the gramophone playing, evidence had to be submitted to prove the causing or permitting of nuisance to occur after the date of injunction given to them, "either by their own act, or by the act of their servants or agents"[282]. It was found that neither of them "had anything to do with the premises"[283] except residing in them at different times. The prosecution lawyer Greenfield had left the extent of the case concerning the Chinese "to be dealt with as the Court might think fit"[284], to which the Chief Justice determined that the motion against them failed. Although evidence had not proven that they had breached the injunction served or that they had contributed to Paley's sustained playing, that the judgement for the Chinese occupants was left to the Chief Justice's discretion despite former allegations that they had permitted the noise to

[280] "The Gramophone Case," *ST,* 2 November 1910.

[281] Ibid.

[282] Ibid.

[283] Ibid.

[284] Ibid.

continue is telling of attitudes towards the Chinese in courts concerning disputes over noise. Whether it was the lack of coverage of the court's treatment of the Hoh landlords, the appearance of a swift dismissal of their charge for showing contempt for the injunction, or having insufficient proof that a breach had occurred on their watch, these trends could be suggestive of the precarity shown to the Chinese in court.

Steele had once again appeared in court two years later in 1912, this time for the charge of trespass onto the premises of a Tanjong Katong bungalow occupied by a Chinese club. As *Paxon v. Kassim* had exemplified, direct confrontation of a neighbour responsible for noisy musical activity may subject the complaining individual to trespassing charges. Having entered the property of the Teck Lian Seng Association on a Sunday afternoon twice after being disturbed by the sound of gongs and tom-toms playing in the house of the plaintiff, Steele had also alluded to the music being played as a "barbaric row", language that was deemed offensive to the gong-banging that was taking place. Steele was subsequently charged a sum of $100 for trespass and for using offensive language. What Steele had then regarded as "willfully and intentionally causing great annoyance to protesting Europeans residing a few yards away" was, to the presiding district judge Cecil Venn Dyson, no wrong in the eyes of the law, and not the purview of the court being considered. Dyson decided that the noise affecting Steele and other residents in Katong be classed as music, despite the close association of noise with the type of instruments played, which included the gong, tom-tom, and cymbal. [285] The sounds produced were of a decidedly musical nature and therefore its playing was not completely unmusical, on account of the fact that "the Chinese like it, and there is no evidence to show that the Eurasians do not like it" [286]. Additionally, counsel for

[285] E. E. Steele, "Chinese District," *ST*, 2 April 1912.

[286] "The Tanjong Katong Case," *SFP*, 4 April 1912.

the plaintiffs had established that the music played in the Association's premises was noise that Europeans had a dislike for, and since only one European had complained, it was assumed that only one European out of those living in Tanjong Katong disliked gongs and tom-toms and found them a nuisance. While the music that disturbed Steele seemed to pass without reproach from the law, Steele's actions had themselves come under accusation from the plaintiff and in the charge decided in the court: the act of having interfered with the playing of music was borne by Steele through a monetary penalty. The ruling had, in Steele's opinion, elevated the din caused by these instruments used by the Chinese to the rank of music, thus eluding scrutiny in the district court and evading the crux of the noise nuisance problem that it was to him.[287]

Dyson's ruling in favour of the complainants became the subject of ire in the series of letters Steele penned to the *Straits Times*, which stirred up questions about the intersections of private nuisance and residential rights and occupancy in Tanjong Katong, chief among these touching on the relationship between a residential space's racial character and its appropriate soundscape. Having felt maligned with the ruling given, it seemed that Steele had taken to the local papers to air his grievances and to set a certain example of the case to the European and Eurasian residents of Tanjong Katong. Announcing the ruling's implication for the neighbourhood, Steele had taken it upon himself to publicize a message to his fellow Europeans that European "tenancy, or ownership, [no longer] include[d] the usual right of peaceful enjoyment of the property"[288] , announcing a new exception to "usual" property rights as cemented in the ruling. Pointing to further developments in the space-specificity of native music, Steele wrote:

[287] E. E. Steele, "Chinese District," *ST*, 2 April 1912.

[288] Ibid.

> *Fortunately the District Judge has reserved a place where the gong is mute amd the tom-tom silent, for he has made the important ruling, re gongs and similar music, "What is not a nuisance in Tanjong Katong would certainly be a nuisance in Tanglin." Apparently the factor of Chinese ownership does not apply to the district of Tuans besar, and Judges; and the nerve racked Katongite may seek in the local Belgravia that peace which is denied him at the local Brighton.*[289]

Once again, in the tone reminiscent of some views aired in the 1870s legislative discussions, the locality principle was reiterated in the court of law. As an extension of legislation, this particular case had drawn on similar sentiments that again reinforced, reproduced, and re-emphasized the space-specificity of native or Asian music and the spatial logic of noise-permitted areas and places where noise nuisances were to be strictly prohibited and prosecutable, and punishable. Individuals residing in the latter, of the district occupied by the *tuans besar* and judges associated with the affluent central district of Belgravia, had full autonomy to have and continue to have a residential area devoid of these sounds of wayangs and associated noisy instruments and music-making. Individuals residing in the former, where such music and sounds were characteristic of the permitted soundscape, had near zero say and recourse to the law, were at the complete mercy of the 'Chinaman' to do what he pleased whenever he pleased, and thus placed in a state of helplessness as far as noise, the police, and the law was concerned. In the former, noise was the target of regulations and the law, while music became legally sanctioned in the latter. The sounds of gong-banging had indeed had a premium placed on them in areas nearby Hong Kong Street that now extended to Tanjong Katong.

[289] E. E. Steele, "Chinese District," *ST*, 2 April 1912.

What stands out in the Steele saga of 1912 was not only the judgement reserving Tanjong Katong for the musical customs of the Chinese, but the undisguised show of support that the local newspapers lent to Steele. The *Free Press*, for one, had taken responsibility for selecting and publishing Steele's letters and also published editorial comments expressing sympathy for Steele's cause and plight while remaining critical of Dyson's 'misguided' legal judgement. On two separate occasions, Steele's and another correspondent's letters had come attached with editorial remarks. To Steele's follow-up letter directed against the supposedly faulty logic of the district judge, an editorial comment mentioned that it was unnecessary to reproduce Steele's sworn statement in print for a closer scrutiny of the case owing to what the editor regarded as the impregnability of Steele's case.[290] In contrast to the judicial decision, a Katong resident signing off as B. had later written to the *Free Press* to justify that Tanjong Katong was "not a Chinese Quarter, as the Chinese own but a small proportion of the property there and occupy only a portion of what they own"[291], proceeding to list multiple names to properties showing that not more than twelve to fifteen houses were Chinese-owned compared to a larger proportion that was owned or occupied by Europeans and other ethnic groups, including the Arab merchant Syed Alsagoff, the Sultan of Johore, and a Bombay merchant. Editorial comments then argued in support of B.'s letter, stating that the demographic evidence was a clean knock-out of the erroneous judgement of Tanjong Katong as a Chinese district, deeming Judge Dyson to have "dogmatized on a matter quite external to his province,"[292] and imploring the Attorney-General and the colonial administration to enquire into

[290] "The Tanjong Katong Case," *SFP*, 4 April 1912.

[291] B. also pointed out that Steele deserved the public's thanks for having made "public a judicial ruling which otherwise might not have been made public", once again demonstrating the role that newspapers played in the circulation of international news as well as domestic affairs for the English-literate population. B., "The Egregiousness of the Tanjong Katong Pronouncement," *SFP*, 4 April 1912, 13.

[292] Ibid.

the veracity and professional capacity of Dyson. Clearly, the sentiments emanating from the *Free Press* was resolutely affirmative of Steele's initial complaint against the noise, reserving criticism towards the purported injustice that the judicial ruling had brought to Steele and European residents of Tanjong Katong.

Of the cases in 1910 and 1912, it appears evident that distinct types of noise were awarded different interpretations in the courts, depending on the approach adopted by the complainant of noise, the perceived neighbourhood character, and other perceived qualities of the sounds made. It remained within the scope of the law to enforce a successful injunction against the volume, intensity, duration, and type of songs played from a gramophone that were causing a nuisance to a nearby neighbour, yet many more barriers existed for the restriction of private amusements, leaving the sounds of privately made music consisting of gongs, drums, and cymbals associated with Chinese festivities to be played with impunity as long as a permit had been sought. In the case of gramophone music, Steele's course of action through injunction, as opposed to physical visitation in 1912, and the show of contempt by Paley held sway over the eventual ruling. The potential for one to be charged with trespassing, even with good and reasonable cause to enquire about the ongoing noise, was one such barrier for Steele, and previously for Paxon and Hone in 1908. The higher authority that private entertainments possessed by the theatres and music permit for private spaces appears to take certain precedence in Craufurd, Paxon, and Steele's cases. Gramophone music in the private space of the home could be easily treated as an actionable nuisance whereas the music of private entertainment at a private event in a private space had its own legal safeguards. The subjectivity of hearing also figured across these cases, with varying and unfixed tolerance thresholds taken into account in the cross-examinations and the judicial ruling. Wolferstan's judgement of Craufurd's complaint as a private and individually-motivated one and

Dyson's deduction that Steele was the sole complainant in the neighbourhood determined the final word on the extent of nuisance that the offending noise was to its surroundings – an absent history of complaints lodged against a particular noise dropped its odds of being ruled as a neighbourhood nuisance and sustained the belief or impression that other residents resigned to tolerating it.

The concern with preserving cordial relations with the Chinese thus appears to exert a certain significance in judicial deliberations, given the tenuous relations that colonial administration had given to the balance of equality and freedom given to the native and Chinese population. The trend of government and legal authority toeing the line and maintaining good relations with their Chinese subjects remained a more important concern than an all-out indiscriminate effort to accede to civil complaints of private noise nuisances. As eager as European demands were for control and a tighter rein of native and Chinese populations was, it would appear that the legislative circle and the courts were cautious of being seen as overly encroaching on the liberty of non-European subjects. Additionally, it is evident that the police and the courts were not able to disrupt the legality of private music and festivities once they were licensed and permits were granted, even in the face of an individual nuisance complaint. As the discussion on public noise nuisances has revealed, it was easier to have legislation set the bounds of where processions, firecrackers, and celebrations could occur along public roads and spaces. Developing legislative language and the requirement of permits permitted the governing and control of activities that were of a legally defined 'public' character. The story was, however, not quite the same where the nuisance could not be sufficiently considered 'public', at the bounds of where legal authority stopped and private property entitlement began.

In closing one of his letters, Steele wound up his grievance by writing:

> *It may save residents in these proclaimed districts money and much valuable time if they now fully recognize that in such [similar] circumstances the victim has absolutely no remedy, no power to stop the annoyance, no right to protest. The police are powerless to assist householders in what the law ironically terms 'civil cases' and in fact are practically forbidden to help.*[293]

In his words, "the victim" referred to was the European residing in Katong and other sections of the suburbs or town that were occupied chiefly and initially by non-Europeans. The situation established by Steele in the newspapers was a communal problem predicated on an us-versus-them situation, not too dissimilar from the frustration expressed against 'Asian noises' in earlier commentaries and descriptions. As mentioned, the consideration of the numbers and the length of time occupied of any locality determined its nature and the way it came to be regarded with regard to permissible activities. By issuing words of caution to the would-be readers of his letters, Steele reiterated his lingering belief in what he saw as the absurdity of the judge's ruling, as well as the logic accompanying questionable activity taking place in residential areas.

[293] E. E. Steele, "Chinese District," *ST*, 2 April 1912. Emphasis added.

4.5 Concluding Analysis

Colonial rule may have introduced new discourses of criminality but their legal enforcement in practice was "contested, compromised and contingent on the exigencies of state actors in everyday life."[294] This chapter's examination of select cases gestures toward a disjoint between the intentions of lawmakers and the actual practice of law and judicial interpretation where nuisance and noise was concerned. It also supports the thesis' earlier claims that the demand for quietude comprised varying aspects of conflicts and disagreements over competing land use and property rights. These cases reveal the state of nuisance abatement in colonial Singapore to be anything but immediately and effortlessly advantageous to victims and sufferers of noise, unlike what the surface reading of provisions of the law might suggest. In reality, individual and legal actions taken by those aggrieved by private noise nuisances appeared to meet with a substantial number of limitations and obstacles. The requirement of show of unity against the nuisance under the terms of the 1872 Summary Criminal Jurisdiction Ordinance was an obstacle to individuals who could not, or in Craufurd's case, did not possess any evidence of support to their claim. The stopping of a wayang at Grange Road and Scotts Road in the same year could only have gotten police action with a semblance of solidarity in the neighbourhood against the noise. Similarly, the addressing of nuisance or annoyance stemming from theatrical performances under the 1895 Theatres Ordinance specifications, though intended to cover public and potentially private sources of nuisance, could only be invoked if a communally-backed complaint of a significant portion of the community was lodged with the Chief Police Officer – who had the power to revoke the theatre permit. As the cases analysed in this chapter suggests, this police authority was not sought for nor rendered in the manner conducive to the victim of noise's demands. Ironically, the assumption that

[294] Saha, "Colonization, Criminalization and Complicity," (2013): 663.

permits had been given also appeared to inhibit or discourage individual action and communal demands for quiet. Thus, although colonial legislation concerning the production of music and noise carried the promise of regulating these sounds, that same legislation also complicated individual action and complaints framed under the private nuisance label. Derek Vaillant's characterization of noise as a slippery epistemic category in his study of civic discourse in turn-of-the-century Chicago certainly rings true for the European residents described in this chapter, whether by a lack of a concerted demonstration against noise owing to different subjectivities, or the law being insufficiently disposed to overturn or revoke legal permits in lieu of noise complaints.[295]

Indeed, as 1823 regulations specified, nuisances "generally speaking may be safely left to the complaint of individuals in each particular instance where the cause of nuisance is not obvious at all, or directly injurious to particular individuals, …when it may be made subject of special regulation."[296] The regulations on transfer of English law to Singapore under the jurisdiction of the East India Company also contained an elaboration on what the absolute rights that a British subject was entitled to following the constitution of England, which extended to "all classes of people residing under the protection of the British Flag at Singapore"[297], namely the right of personal security, personal liberty, and property. The right of personal security was defined as the subject's legal uninterrupted enjoyment of his life, his limbs, his body, his health and his reputation, while the right of property dictated "the use, enjoyment and disposal of all acquisitions without any control or diminution save only by the Laws of the Land"[298]. Following the legislative changes

[295] Derek Vaillant, "Peddling Noise," 258.

[296] Buckley, *An Anecdotal History*, v. 1, 114.

[297] Ibid,

[298] Ibid. Also see Braddell, *The law of the Straits Settlements*.

in the 1870s, the police force was made increasingly responsible for regulating processions and assemblies, and charged with preserving the public peace, preserving order and decorum in public places, and looking after what fell under the general category of "preventing and detecting crimes and offences"[299]. The mounting recourse to police authority and legislation by residents were reflected in the expressions of private or individual initiative in keeping check on neighbourhood noise nuisances. Police authority that was enforced with enough diligence and expediency towards the suppression of nuisance constituted the bare but indispensable minimum that European residents expected for keeping neighbourhood quiet. According to the 1896 *SFP* editorial briefly mentioned in chapter 3, not only must the laws of the colony be made known to the non-European masses and the whole residential population comprising Europeans and non-Europeans be "made clearly aware what are the limits beyond which liberty becomes licence,"[300] aggrieved residents also needed to be cognizant of the ways to obtain police authority for the suppression of a nuisance. Yet, these processes of obtaining proper legal aid appeared a circuitous and arduous one, such that it was not uncommon for one to have to "run from magisterial pillar to police post in search of the aid that a farcical law evades giving…"[301].

The sentiment of having license to meet unrestrained liberty continued to be echoed in the 1930s, again in response to the growing impression of Singapore becoming increasingly noisy. Continuing demands for suppression and restriction in legal terms accompanied the perception that "noise [was] a tyranny in itself"[302] that took precedence over would-be interferences with public

[299] Section 35 of Ordinance No. VI. Of 1871, to Consolidate and Amend the Law relating to the Police Force," Legislative Council Proceedings, 13 June 1872. CO 275/15, 12.

[300] "The 'Noise Nuisance'," *SFP*, 11 February 1896.

[301] "The 'Noise Nuisance'," *SFP*, 11 February 1896.

[302] "Noisy City of Singapore," *Sunday Tribune*, 14 February 1937.

liberty to make noise and music as desired. On one hand, it was imperative from the perspective of the administration to "insist on the observation of the laws and regulations"[303]. To the non-official population, there was an enduring belief expressed in newspapers across the years that too much liberal treatment was afforded to the natives and not enough enforcement of laws by the government.[304] The shared observation and belief in lawlessness running loose and excessive liberty in the colony, as a result of the flagrant violation of existing laws and insufficient enforcement, intersected with issues of colonial governmentality, control of the colonized, and the British subject's comfort and rights. Insufficient enforcement or legislative coverage of punishable behaviours was a mutual concern shared by the administration and the non-official population. As far as civic recourse to law in matters of private noise abatement in the late nineteenth and early twentieth century was concerned, the individual seeking to quiet the noises of the neighbourhood faced many challenges and limitations in trying to secure the right to enjoy his property. A disgruntled resident wrote a letter to the *Straits Times* in 1908 complaining about the Orchard Road district's poor patrol coverage, attributing the lack of police reports of noise and disturbances, a case in point of paper documentation betraying reality, to the peaceful nature of residents adopting the *qui bono* attitude and the fact that there were insufficient policemen to make accurate reports reflecting the actual soundscape of the district.[305] Even till 1915, newspapers were still reporting on risks that Europeans face in trying to abate nuisance on their own initiative – gesturing to their helplessness and real danger in getting noise to stop that persisted in the second decade of twentieth

[303] "Cracker Firing. Governor On Forms of Torture," *ST*, 6 March 1933.

[304] Common 'offences' committed by natives included "trespassing on private property by itinerant vendors…and other similar acts…contrary to laws which [were] insufficiently enforced." Less Freedom, "Too Much Freedom," *ST*, 6 September 1905; J. H. S., "Control of the Chinese," *ST*, 8 August 1927.

[305] Police! Place Please?, "Street Noises," *ST*, 26 May 1908.

century.[306] The dilemmas and frustration experienced can perhaps be encapsulated in the words of a 1927 editorial reflecting on the state of the noisy soundscape of Singapore:

> *…if I had a legal right to put an end to all these noises I doubt whether I should exercise it. All the same, it would be a wonderful consolation to know that, should I feel my brain snapping one day, the law would be behind me in my effort to preserve the pieces!* [307]

The hope that the law would back individual attempts to silence noise through legal means, expressed by this one correspondent, reflected an attitude held by affected individuals that was echoed in the local press. Dyson's ruling against Steele in 1912 was certainly perceived as a step back for affected Europeans in an already challenging environment where licensed Asian music appeared to continue unchallenged.

[306] "The Tomtom Nuisance. Ceylon Planter Killed While Trying to Stop the Nuisance," *Malaya Tribune*, 6 April 1915, 11.

[307] "Noisy Neighbours," *Malaya Tribune*, 26 September 1927, 3.

Chapter Five: Conclusion

5.1 Summary of Arguments

Legislative discussions, law enforcement and judicial processes formed part of the solution dedicated to the 'sanitizing' of Asian music in public streets and residential neighbourhoods. Demands for government intervention to the tune of introducing and maintaining law, order, and authority in the legislatively developing colony since the mid-nineteenth century culminated in early drafts of police laws governing Asian street and stationary music in the 1870s, as I have demonstrated in chapter 2. Under the amended provisions, the use of music in assemblies, processions and houses became a licensed activity to be screened by the Chief Police Officer, while exposing any spontaneous unlicensed musical activity on streets to be regarded as an offence. Apart from consideration of both public and private spaces, making the unlicensed usage of specific musical instruments illegal and consideration of invalids were two other concerns influencing these legal revisions. At the same time, Legco discussions of the street offences provisions of the police laws and the 1895 Theatres Ordinance reveal the sensitivity shown to Asian liberties in the processes of legislative revision, in which the underlying locality principle governing the acceptability of Asian music depending on neighbourhood character is observed.

Next, chapter 3 has shown that demands for keeping the Asian populations in check and obedient to British-made colonial law reached a crescendo in the 1890s with neighbourhood 'noise nuisance' gaining traction as a byword for unregulated and persistent night or Sunday noises from the wayang menace. Essentialist characterizations of the noise-loving Chinese and the disturbances caused to the neighbourhood at night and on Sundays from his musical activities contributed to the perception of Asian obliviousness to the noisiness of his music, which individual residents and editorial opinion in the press based their demands on for both police and legislative stringency.

The demand for a nuisance in actuality to be regarded as nuisance in the eye of the law in the colonial European's appeal to law is testament to their attitudes of the colonial administration's obligation to the European population's safety, comfort, and claim to the residing neighbourhood.

Yet, the law was not solely structured to form a tight seal over non-European music and sounds, as chapter 4 has argued. While street or processional music were regulated through licensing with relative ease, exceptional court cases involving residential noise complaints reveal some leeway remained for manoeuvring the charges of nuisance. Arguably, the "legal right to disturb"[308] created by the licensing system had an unintended effect on neighbourhood nuisances. Unlike public music legislation, private noise complaints benefited less from the largely public-oriented police laws and legislation. The specifying of nuisance abatement in the Summary Criminal Jurisdiction Ordinance, Theatres Ordinance, and the Municipal Ordinance, largely geared towards nuisances of a public nature and a reluctance to be held responsible for private nuisances reduced the legal avenues that complainants could have recourse to. As the legal cases of chapter 4 has also revealed, the likelihood of obtaining a combined show of unity for a court summons was impeded by different thresholds of tolerance and the lack of commitment to invest in time-consuming administrative processes and costly litigation, or the lack of a general cognizance in how to apply the law correctly to aid in nuisance claims. Compared to the commitment and mobilization of vested groups in Victorian London against street musicians, the lack of a common front in colonial Singapore, apart from that shown in 1896 towards the wayang menace, inhibited individual attempts at achieving the suppression of wayang music in residential neighbourhoods, leaving the impression of uncoordinated and sporadic private complaints.

[308] Sykes, "Sound as Promise and Threat," 135.

The emerging awareness of a legislative system ill-equipped to address private complaints of Asian music was a defining state of noise abatement in pre-war Singapore. The sentiments that were present in the discursive framings of music in Asian processions and theatrical entertainment arguably contain a deeper reflection of colonial anxieties and official concerns, which were geared towards different priorities despite a somewhat common sonic ideology. As it would seem, hearing the same noise did not directly translate to a common desired outcome. The examination of demands for keeping Asian populations, activity, and liberty in check, while tied to the bigger theme of control and discipline, should be accompanied by the perusal of judicial decisions that employed a cautious treading of religious or ethnic liberty, or favoured the maintenance of Asian religious freedom over securing European interests. Based on the available sources on hand, the poor showing of solidarity against neighbourhood nuisances, the trivializing of individual noise complaints in local courts, and the persistence of wayang complaints points to an arguably unchallenged position of licensed Asian music in private settings. It was highly likely that licensed wayang music in the private setting remained as an immoveable aspect of the Singapore soundscape and in some private residential neighbourhoods, as the persistent surfacing of complaints against noisy wayangs beyond 1896 testifies to.

This study of how and why Asian music and festivities on the streets and in the suburbs were heard as noise, therefore compelling legislative action in the form of various regulations to restrict and to contain its production and audibility, rejects simple interpretive conclusions of a colonial silence's triumph over noise, or modernity's sonic sanitation banishing the sounds of tradition and religion for the secular modern. Through this thesis, I suggest that it is imperative for further works on noise and sound in colonial Singapore and wider Southeast Asia to look beyond how noise was heard and contained, and keep an ear out for instances in the historical records

where and when official and legal attempts to contain and regulate noise were themselves met by unprecedented limitations. An extended long study of the ramifications of such laws beyond the nineteenth century in this thesis provides the necessary exploration of the practice of legislation, which included its moments of success, in the form of realized objectives, and instances of more questionable outcome, when exceptions to the rule exposed gaps and inconsistencies in the very system that sought to contain both noise and nuisance. Historiographically speaking, this protracted episode in Singapore's longer history and legal development gestures at the importance of expanding the research parameters to uncover colonial law's application. The attention paid to macro-scale concerns about the economy, the structuring of society, and other aspects of the Straits Settlements and British governance across official and non-official documentation far outmatches the scanty details given of day to day living, of which go by unrecorded. In the absence of more extensive court records and police logs available to the historian of Singapore's colonial past – a vexing problem posed by uncatalogued and unarchived historical material stored away from public access, newspapers also fill the gap left in the wake of memoirs that only accord passing attention to the ruminations on the heard soundscape. Additionally, newspaper correspondence and editorials reflect a sense of weightiness to the salience of the problem on a much smaller and focused scale, as opposed to the yearly presentment of a blue book and administrative reports might. Most importantly, local newspapers contain remnants of court deliberations and rulings otherwise left out in law journals and legal compendiums of the Straits Settlements. These compiled publications were more likely to record precedent cases that defined what could be charged as an unlawful or actionable offence, rather than the instances when alleged behaviours evaded this sort of categorization, and defied successful conviction.

5. 2 Noise(s) and its Aftermaths

This thesis' examination of Asian music as noise in the colonial setting supplements narratives of noise as a by-product of the Industrial Revolution and twentieth century age-of-noise narratives.[309] By suggesting that the developing character of private and public spaces was owed partly to negotiations of Asian music's spatial belonging, narratives of noise resulting from mechanical and technological means should not, I posit, be the defining characteristic of sonic conflicts in the recent past, nor be taken to be the sole definitive of Noise in singular form in the past two centuries. The contentious legacy of noise nuisance suggests that the regulation and licensing of Asian music was temporary at best in the protracted contestation over neighbourhood acoustic environments, where legislation was not a failsafe in establishing the demanded, idealized quiet. This tenuous state of affairs characterizing local noise nuisance disputes and complaints showed that existing legal measures were constantly challenged by its own oversight or suspended in a finetuning process with shifting attention to new sources of noise. At the same time, the unsettled state of domestic noise issues in the colonial setting gesture to the continuities in legal intervention (or absence of) in private nuisances and sociocultural attitudes noises heard from the private domain. The emergence of complaints of noises from dogs, wireless entertainment, and loudspeaker technology in discussions of anti-noise bills of 1933 and 1934, coinciding with the legal removal of itinerant hawkers from residential districts and estates, suggest that while the focus on Asian music might have diminished, the persistent racialization of noise was a constant feature in noise abatement discourse.

[309] Karin Bijsterveld, *Mechanical Sound: Technology, Culture, and Public Problems of Noise in the Twentieth Century* (Cambridge, Massachusetts: MIT Press, 2008); Mansell, *Age of Noise in Britain*.

The thesis has attempted to uncover the multiple ways that processional music and neighbourhood noise nuisances have been addressed by colonial legal and judicial institutions. The combined examination of broad official discourse with the collective quotidian experiences contained in newspaper correspondence and reports of obscure court cases has yielded a richer narrative of the law's complicated history of interpretations and the mixed results delivered in the colonial regulation of Asian sounds in the Singapore soundscape. The premise of noise as a sociocultural construct of European sonic ideology has allowed insights into the extent of influence of colonial legislation; envisioning the lingering influences of major legislative milestones, together with the judicial exceptions and challenges to its rule, provides a much-needed contribution to the contextual background on which more historically-informed judgements may be made on roots, continuities, and discontinuities of the colonial legacy on the state of law and public space in contemporary Singapore, certainly a "live issue a half-century after the empire's end"[310]. By interrogating the insufficiencies and incoherencies present in the legal form, the thesis has attempted to move beyond the impressions of hegemony and fiction of progress of the colonial administration on the legislative and municipal fronts. This line of inquiry accompanies the acknowledgment of the revival of colonial sonic ideology in the post-war secularization of public spaces and relegation of sacred sounds to 'communal domains'. [311] The thesis' suggestion that the roots of divergence between public and private noise legislative measures can be located in pre-World War II Singapore is telling of the approaches to public nuisances and domestic or civil litigation in both the colonial court system and its present form. At the same time, problematizing the present of a former colonial state should be done with the utmost caution to avoid casting the

[310] Martin J. Wiener, "The Idea of 'Colonial Legacy' and the Historiography of Empire," *The Journal of the Historical Society* 7, no. 1 (2013): 3.

[311] Jim Sykes, "Sound Studies, Religion and Urban Space," 394 – 404.

colonial class of officials and residents and their attendant viewpoints as the primary architects of historical change, "unfettered and unchanged by the communities they interacted with and ruled over"[312]. Steven Pierce and Anupama Rao assuming law's fixity as a discrete and determinate domain producing stable disciplined subjects hinders understanding of the law's iterative disciplinary character.[313] John Comaroff astutely wrote of the ongoing process of trial and error, invention and reinvention through which "the terrain of the colonized became a testing ground from which emanated new lawfare, new technologies of order and regulation"[314].

Recurring domestic noise disputes beyond the colonial period gesture towards the continuing relevance of historical inquiries into the trajectory of private nuisance litigations and measures in post-independence Singapore. Claims involving excessive noise comprised 70% of cases seen by the Community Disputes Resolution Tribunals in Singapore in 2015, the State Courts tribunal responsible for overseeing neighbour disputes that have exhausted community medication measures.[315] In January 2020, an Exclusion Order was issued to occupants of a public housing apartment unit the breaching of a court order to keep noise levels down, a first of its kind for Singapore under the tribunal.[316] These recent developments suggest that the dust has not yet settled on local noise politics involving neighbour grievances. Looking at urban negotiations of western art music involving a local group's protest against piano noise in Taipei between 2014 and 2015, Jennifer Hsieh suggests that a reproduction of the western ear, much like the western gaze, had

[312] Tony Ballantyne, "The Changing Shape of the Modern British Empire and Its Historiography," *The Historical Journal* 53, no. 2 (2010): 452. (429 – 452)

[313] Steven Pierce and Anupama Rao, "Discipline and the Other Body,": 160.

[314] John L. Comaroff, "Colonialism, Culture, and the Law: A Foreword," *Law and Social Inquiry* 26, no. 2 (2001): 311.

[315] Seow Bei Yi, "Almost 70% of neighbor disputes heard by tribunals involve 'excessive noise': State Courts," *ST*, 23 September 2016.

[316] Joyce Lim, "First Exclusion Order issued to bar man's noisy neighbours from home," *ST*, 5 January 2020.

taken place in Taiwan, where the recognition of local and familiar sounds as noise resembled an inversion of the western European concept of foreign and unfamiliar sounds as noise.[317] The continuing revision of Thaipusam music regulations after its 1973 music ban and online discussions of the noisiness of Chinese funerals and Malay weddings held at public housing void decks allude to existing racial undercurrents of an inherited western bourgeois rubric of noise.[318] The invented understandings of noise in modern sounds and past auralities, Smith concludes, are grounded in its own historical context.[319] The value of looking at noise as a subjective and sociocultural assessment, not solely defined by its qualitative aspects, cannot be stressed enough for historical and sociological work. In many ways, our own listening to past conversations of how noise was conceived, experienced, and managed also entails a considerable suspension of belief about essentialist ways of hearing. In making the sounds and sonic ideologies of the past more audible, it is also vital that we pay attention to the exceptions, disruptions, and discontinuities in stereotypes of the heard as well as the hearers. Just as the thresholds of tolerance for noise can be a culturally and individually variant one, the same can be said of the spectrum of attitudes adopted by historical actors.

[317] Jennifer C. Hsieh, "Piano Transductions: Music, Sound and Noise in Urban Taiwan," *Sound Studies* 5, no. 1 (2019): 16.

[318] Joyce Lim, "Racist Rant: Amy Cheong gets stern warning from police," *ST*, 25 March 2013; Jalelah Abu Baker, "Shanmugam addresses questions over ban on playing music at Thaipusam," *ST*, 6 February 2015; Rahimah Rashith, "Percussion instruments to be allowed at Thaipusam procession," *ST*, 16 January 2019. George Radics and Vineeta Sinha, "Regulation of Religion and Granting of Public Holidays: The Case of Tai Pucam in Singapore," *Asian Journal of Social Science* 46 (2018): 524 – 548.

[319] Mark M. Smith, *Listening to Nineteenth-Century America* (London: University of North Carolina Press, 2001), 264.

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