

To the Hon. the Mayor  
and Common Council  
of the City of Pottawm.

Gentlemen

In obedience to your resolution  
concerning ordinance No. 3,377, I  
have to say, I hardly know  
as to what point the Council  
desire an opinion. If this  
were enacted as an ordinance  
defining some misdemeanor and  
prescribing some punishment  
it would probably not be good  
because it in terms authorizes  
certain privileges to a certain  
specified class, to-wit: the Chinese.  
The Council cannot pass  
any law which would discriminate  
between any class of persons; in  
the infliction of penalties.

But the prosecution of persons  
for violation of City ordinance  
is within the control of the  
Mayor and Common Council.

In my judgment they may  
and any complaint to be dis-  
missed, or any particular person  
to be not prosecuted for any  
particular violation. This has

been the practice of the Council  
and of the law officers of the  
city. In my judgment the  
ordinance in question does  
nothing further ~~and is intended~~  
to be nothing more than an  
order, expressed by ordinance  
to allow Chinese (against whom  
the ordinance against firing fire  
crackers ~~was~~ was specially aimed)  
the privilege of fighting the  
Celestial Satan away at the  
commencement of their New Year  
by the use of a little powder.  
In my judgment the Council  
had the power to do this, and  
the form of the order is wholly  
immaterial.

Feb 22, 1884.

Respectfully submitted  
J. C. Moulton  
City Atty.