

University of Ceylon Review

Vol. X, No. 3

July, 1952

Notes on Kandyan Law Collected by Sir Archibald C. Lawrie, LL.D.

ARCHIBALD Campbell Lawrie was born in 1837 in Glasgow, where his father, James Adair Lawrie, was Professor of Surgery in the University. He was admitted to the Scottish Bar in 1860 and took an active part, for about seven years, in the preparation of the *Index of the Acts of the Parliaments of Scotland*.

In 1873 he was appointed District Judge of Kandy, and he lived in Peradeniya on land which is being vested in the University, for he was the 'Court Dorai' who gave his name to Court Dorai Field. His interest in scholarship continued; he learned Sinhalese, and he made a study of the Kandyan records left by the early British Administration. The result was the publication in 1896 and 1898, of the two volumes of the *Gazetteer of the Central Province*. It is not, as the name would seem to imply, a mere gazetteer. It is a history, arranged alphabetically, of every place in the Central Province except Kandy itself. A third volume was to be devoted to Kandy, but it was never written.

In 1892 Lawrie was appointed a Puisne Justice of the Supreme Court, and when he retired in 1901 he was Senior Puisne Justice and Acting Chief Justice. He was knighted on his retirement. He returned to Scotland, and there he published two volumes on Scottish History—*Early Scottish Charters Prior to A.D. 1153* and *Annals of the Reigns of Malcolm and William Kings of Scotland, A.D. 1153-1214*. He received the degree of LL.D. from the University of Glasgow in 1905. He died on the 11th May, 1914, at The Moss, Killearn, Stirlingshire.

Among his literary remains were files of notes made by him or on his behalf and relating to Kandyan Law and History. It is evident that he had contemplated not merely a third volume of the *Gazetteer* but also a book on Kandyan Law. The material on Kandy is far from complete and little of it is worthy of publication. His Notes on Kandyan Law take the form of extracts from Sir John D'Oyly, Simon Sawers, Armour and the *Niti Nighanduwa*, with notes from other writers like Knox, Davy, Percival, Bertolacci and Forbes

and summaries of decisions by the Commissioners and the District Courts of the Kandyan Provinces and the Supreme Court.

All this material found its way into the Colonial Office Library, where it was bound into five folio volumes, each prefaced by a summary of Sir Archibald's career from which most of the above has been taken. Through the courtesy of the Secretary of State for Commonwealth Relations and the High Commissioner for Ceylon in the United Kingdom, the volumes have been deposited for a period in the Library of the University of Ceylon.

If there were no good book on Kandyan Law it would be worth while to put Sir Archibald Lawrie's notes into a form suitable for publication. Since he collected his material, though, Mr. F. A. Hayley has published his *Treatise on the Laws and Customs of the Sinhalese* (Colombo, 1923). In large measure the early material used by Mr. Hayley is the same as that used by Sir Archibald Lawrie. It will therefore suffice to publish only the material which was not quoted by Mr. Hayley.

The following notes are arranged in the order of chapters adopted by Mr. Hayley. Unless otherwise stated, passages in quotation marks are taken from Sir Archibald Lawrie. Passages not in quotation marks have been written by me, but on the basis of material collected by Sir Archibald. Abbreviations follow the list given in Hayley, pp. xxiii-xxv, with the following additions :

Gazetteer : *A Gazetteer of the Central Province* by A. C. Lawrie.

Rev. Com. : Revenue Commissioner

H : F. A. Hayley, op. cit.

The notes in the margin give the appropriate references to Hayley. In many cases Lawrie gives the date but no reference. It would seem that these are references to the records of the Judicial Commissioner.

INTRODUCTION

Section 3

AUTHORITIES

H. 13. Sir John D'Oyly

Lawrie copied the genealogy of Sir John D'Oyly, Bart., of Kandy, from Burke's *Extinct and Dormant Baronetcies*, 2nd edition, London, 1814, p. 167.

Thomas D'Oyly, D.D., Archdeacon of Lewes in Sussex, Chancellor of the diocese of Chichester and Prebendary of Ely, was descended from Edward D'Oyly, Esq., of Littlemarsh in the parish of Stone, Bucks.

On the 8th February, 1744 he married Henrietta Maria, second daughter of Robert Godfrey, Esq., of London, by Elizabeth, sister of

Matthias Mawson, Bishop of Ely. They both died on the same day, 27th January, 1770, leaving three sons :

1. Matthias, of whom hereafter.
2. Thomas, Vicar of Walton-on-Thames, and Chaplain in Ordinary to the King.
3. Francis, Lieutenant-General, and Colonel of the 67th Foot. Thomas and Francis both died without issue.

The Rev. Matthias D'Oyly was Rector of Lickfield in Sussex, Archdeacon of Lewes, and Prebendary of Ely. Born on the 23rd November, 1745, he married Mary, daughter of George Poughfet, Esq., of Leicester, in May 1770. He died in November 1816, having had six children :

1. Thomas, D.C.L. and Sergeant-at-law, born 10th November, 1772, and married 4th January, 1820, Elizabeth daughter of the Rev. Nicholas Simons of Canterbury. He had one son, Thomas.
2. John, of whom hereafter.
3. Francis (Sir), K.C.B., Lieutenant-Colonel of the 1st Guards, who was killed at Waterloo, unmarried.
4. George, D.D., Rector of Lambeth and of Sandridge, born 31st October, 1778, married 9th August, 1813, Maria Frances, daughter of William Brume (?), Esq., of London, and had four sons.
5. Henry, Captain in the 1st Life Guards, born 21st April, 1780.
6. Henrietta, died unmarried 1804.

John D'Oyly, the second son, was born 6th June, 1774 and became Resident at Kandy. He was created Baronet on the 29th August, 1821 but died on the 25th May, 1824 (Hayley says 1825), unmarried, when the baronetcy became extinct. His Arms were : Or two fleurs de lys in bend, sables, between as many bendlets, azure.

H. 14. **Sawers' Notes**—Lawrie's edition of D'Oyly is in typescript. It has added to it 'Extracts from Sir John D'Oyly's (sic) Notes in possession of and lent to me by Mr. J. B. Siebel. The rest of Mr. Siebel's copy is identical with the printed copy'. These Notes, are different from those published by Hayley, Appendix I, except one entitled 'Addition to the Article Ninda-gama', which is identical except for a few verbal changes. Two of the notes bear the signature 'S. Sawyers' (sic), but in the copyist's handwriting. The last note on 'The Maduwa' is incomplete.

Lawrie notes that Simon Sawers was appointed Judicial Commissioner in the room of Mr. Tolfrey (deceased) on the 17th August, 1821. He was succeeded as Revenue Commissioner by Mr. Henry Wright. Mr. Sawers retired on pension on 3rd July, 1827. His Digest was published before

17th October, 1829'. Only one further reference, given below, is made to this 'Digest', and presumably Lawrie's references are to Mr. Campbell's edition of the Notes and Memoranda. A copy not being available, it has not been possible to check.

H. 15. **John Armour and the Niti Nighanduwa**—John Armour was evidently in Kandy before 1819. On the 5th October, 1818 he was 'entrusted with a warrant to search the house of Mr. Muller, Government Butcher'. He was appointed Clerk and Interpreter to the Judicial Commissioner, October 1819, and on 15th May, 1820 he was appointed Secretary to the Judicial Commissioner's Court in the room of Mr. Foenander, resigned.

Lawrie makes a close comparison between Armour's *Notes on Kandyan Law*, published in *The Ceylon Miscellany* in 1842 and the edition of the *Niti Nighanduwa* published in 1880 by C. J. R. Le Mesurier and T. B. Panabokke. 'Armour and the version of Le Mesurier vary, but I think both are translations of the same text, though Le Mesurier is much fuller, Armour compressed and abbreviated'. Lawrie, like Hayley, draws attention to the variations in the order of the castes. 'I think this list of castes shows that the writer was a Low-Country man and that Armour's interpretation of (Kandyan Law) was unauthorised'. Lawrie also contrasts Sawers and Armour on Slavery. 'The chapter on Slaves shows that Armour did not accept the Niti Nighanduwa as a correct statement of Kandyan Law; he omits a good deal; he quotes one or two passages which I do not find in Sawers'.

Like Hayley, Lawrie does not accept the date and ascription of the *Niti Nighanduwa* given by Le Mesurier. 'It professes to be the work and compilation of a single individual writing in the time of the Kandyan King. There are no allusions to a change of rule . . . (illegible) . . . being undertaken at the request of the English Government. Nor were after 1818 any of the principal chiefs of the last Kandyan Kingdom surviving. Of those whom the cruelty of the last King has left alive many lost their lives or were banished to Mauritius in consequence of the rebellion of 1818. Smallpox and (illegible) carried many off in the next few years. I think it is clear that the *Niti Nighanduwa* is the work of a single author'. After quoting (with a couple of variations) the history of the manuscript given by Le Mesurier, Lawrie says: 'The Niti Nighanduwa was not known to Sir John D'Oyly nor to Mr. Sawers . . . I do not know when the Digest was published—probably when he (Sawers) retired. A great part of the Digest was copied by Sir Charles Marshall in his (illegible—not "Judgements"). From the silence of Sir John D'Oyly and Mr. Sawers I am inclined to the opinion that the Niti Nighanduwa was compiled after Sawers' Digest, i.e., sometime between 1827 and 1842'.

(A couple of notes, evidently written later, refer to pages 46 and 47 of the *Niti Nighanduwa*, 'land taken by the Crown', 'Settlement in Court' and 'appear in Court' with the comment 'very modern').

PART I

The Constitution

THE DIVISIONS OF THE COUNTRY

H. 39. 'In 1769 the Priests told Governor Falck "that the greater (?) Disavas of Uva, Matale, Seven Korales and Four Korales are governed by four Maha Disapatis" (Bertolacci, p. 464) and that there were 17 inferior Disapatis and their Disavas are (1) Dumbara, (2) Udapalata, (3) Bulatgama, (4) Kotmale, (5) Wellassa, (6) Taman Kade, (7) Madakalapuva, (8) Puttalam, (9) Sabaragamuwa, (10) Panama, (11) Munessarama, (12) Tambalagamu, (13) Kottiarum, (14) Maha Madige Lada, (15) Ahid (?) Madige Cadda, (16) Nuwara Kalawiya, (17) Pattipala'.

Notice in *Gazetteer*, p. 601 of an appointment of a Disava for Pahila Dalupata.

CHAPTER II

THE SYSTEM OF GOVERNMENT

H. 41. **The Monarchy**

Lawrie's quotations and illustrations give a slightly different impression of the nature of the Kandyan monarchy.

From D'Oyly:

'The power of the King is supreme and absolute.

The Ministers advise, but cannot control his will.

The King makes peace and war, enacts Ordinances and has the sole power of Life and Death.

He sometimes exercises judicial authority in civil and criminal cases, either in original jurisdiction or in appeal.

The acts of his Government are presumed to be guided by the institutions and customs of his kingdom.

Before innovations of importance are carried into effect it is customary to consult the principal chiefs, and frequently the principal priests, and when other matters of public moment are in agitation the same persons are usually called to Councils'.

Lawrie's Notes :

' I know of no ordinance enacted. But the king made orders affecting a number of people. It is noticed in the Revenue Commissioner's Diary (17th August, 1819) that a most positive order existed that no marriage could take place in the families of the Chiefs without the king's permission being first had.

In 1814 the king ordered all Low-Country Buddhist priests to leave the Kandyan country and he confiscated their Vihares. (Jud. Com. Diary, 12th October, 1822) '.

From Knox, p. 64.

' He (Rajah Sinha II) is an absolute tyrant, and rules the most arbitrarily of any king in the world '.

Ibid., p. 84.

' As to the manner of his Government, it is tyrannical and arbitrary in the highest degree ; for he ruleth absolute and after his own will and pleasure—his own head being his only counsellor.

The land all at his disposal, and all the people from the highest to the lowest slaves or very like slaves : both in body and goods wholly at his command '.

Percival, p. 241.

' Although the Candians are governed with the most complete despotism, yet as their prejudices and customs are shared and respected by their monarch, they are proud of being free from a foreign yoke and slaves only to a wastrel of their own race '.

Ibid., p. 248.

' The Government of Candy is an absolute despotism and any resistance to the will of the King without power to maintain it, is sure to be attended with immediate destruction.

In spite of these circumstances however the natives look upon certain fundamental laws and regulations, existing among them from time immemorial as the real depositories of supreme power and they maintain that if the King ventures to encroach upon these he is amenable to the justice of his country as well as to the meanest subject.

Some instances of Kings who have been deposed and put to death are cited in support of this idea, although it is evident that as long as the whole power of the State is vested in the King, and as long as there is no counter-balancing power opposed to him it is a successful rebellion alone which can bring him to justice.

The whole doctrine in fact serves only as a handle to any Minister or Officer who finds himself sufficiently powerful or ambitious to depose his Master.

An instance of this kind occurred in the fate of the last King of Kandy. His Adigar or Prime Minister having formed a large party and conceiving he could govern more easily a creature of his own making than the Monarch who had exalted himself, deposed and put to death his Master and then procured a Stranger to be elected in his room '.

Note by W. I. J.

Phrases like ' supreme and absolute ', as used by D'Oyly, are dangerous because they confuse legal authority with actual power. They result in Hayley's calling the King ' an absolute monarch ' whose power is ' legally unlimited ' but ' to some extent controlled by a council of ministers '.

It is clear from the authorities that the King's power was not legally unlimited. As in all feudal systems, his powers were determined by custom or law. The whole social system, from the monarchy to the slaves, was regulated by customs which the British authorities tried to collect and express after 1815. There was, however, one great difference between Sinhalese feudalism and European feudalism which gave the Sinhalese King a greater potential authority. In Europe jurisdiction depended primarily on the ownership of land, so that the Duke of Normandy, for instance, though a vassal of the French king, governed Normandy in his own right and not by authority of the king. In Ceylon the Adigars, Disavas, Ratemahatmayas and even lesser chiefs governed by reason of appointment by the king, and their offices never became hereditary. Nor had the chiefs any effective means of compelling the king to obey the customary law unless they could stage a rebellion. On the other hand, the king never became as absolute as the French king before the Revolution, because he had no effective power unless he had the support of some at least of the more powerful chiefs. He had no standing army which could be used against a recalcitrant chief but had to rely on *rajakariya*. A strong king could therefore become ' despotic ', but a weak king was weak indeed.

Election of the King

Lawrie quotes Percival (p. 249) : ' It is the power of the people to put aside the next branch of the Royal Family and to elect the more distant or even a stranger '. He then quotes examples. ' King Wimala Dharma Suriya I left a son but he was succeeded by the son of his mother's youngest sister, (*Rajavaliya*, p. 100) Senarat. King Senarat was succeeded by his step-son, King Rajah Sinha II. King Narendra

Sinha was succeeded by a brother of his wife, Sri Wijaya Raja Sinha, who in turn was succeeded by a brother of his wife, King Kirti Sri. King Rajadhi Raja Sinha was succeeded by a nephew of his wife'. He also quotes Jud. Com. Diary for 12th July, 1827: 'Dehigama Diwa Nilame stated that when the King was brought to the Palace to be installed, there were many other candidates for the throne, and a Moorman of Polgolla in Dumbara being interested for one of the other candidates wanted the procession to go in a different direction from the King's quarters. When the King was secured in his Government he confiscated the whole of the Moorman's property'.

Though Hayley relies mainly upon Davy (p. 159), Lawrie does not quote him on this point (though he quotes him on many others), but sets out from Bertolacci (p. 459) the answers given to Governor Falck in 1769, to which Hayley refers only in a footnote. He also quotes from Percival (pp. 249-50) the story that the selection was sometimes made by an elephant, though he also quotes Percival's statement that he did not believe it.

CHAPTER III

THE CHIEF OFFICERS OF MODERN TIMES

Section 1

ADIGARS, DISAWAS AND RATEMAHATMAYAS

H. 48. Adigars

'When the Adigars passed through the streets of Kandy, the inhabitants were, by custom, obliged to shut themselves in their homes and passengers stood aside and made obeisance till the Adigars passed'.

Resid. Diary, 10th March, 1818.

'In 1817 Ehelepola Maha Nilame met Ratwatte, Disawa of Matale, and accused him of failing to do him honour, and disgraced the Disawa and deprived him of the insignia of his office. Ratwatte Disawa's followers fled and he was left helpless on the high road. Ehelepola shortly afterwards appeared before the Governor with several elephants and with between 2,000 and 3,000 people and apologized for his conduct to the Disawa'.

Gazetteer, p. 203.

H. 49. Disawas

'The Disawa of old was the proper person to decide land cases within their jurisdiction'.

Jud. Com. Diary, 22nd March, 1820.

• Plaintiff ploughed and sowed and when the crop was ripe defendant tied a Bola on which plaintiff preferred a complaint before the Disawa and received a Wattoor ola to reap the crop'.

Jud. Com. Diary (no date given).

'In attending on the King no Disawa could use a palanquin'.

Rev. Com. Diary 17th November, 1818.

'The Lieutenant-Governor issued two licences in favour of the Disawa of Matale and the Uda Gabada Nilame (Kapuwatte) to use palanquins within the Maiwili Ganga and the ancient Gravits of Kandy, in consideration of their old age and rank as principal chiefs'.

Rev. Com. Diary, 17th August, 1821.

Ratemahatmayas

'I think that Ratemahatmaya as the title given to the headmen of these divisions is comparatively modern. The older title was Ralahami or Raterala'.

'Mr. Bell (Antiquarian Research, Kegalle, p. 3) says "the Ratemahatmayas were of less rank than the Disawas, their duties were alike, but less responsible. No flag was allowed them, no armed guards and palanquins; . . . In civil matters Ratemahatmayas deputed their authority to Korales "'.

Section 3

OFFICERS OF THE PALACE

H. 51. Lawrie has numerous notes on this subject, but most of them have not been corrected and some are difficult to follow. He lists some thirty different officers. In the main his material comes from D'Oyly and Davy.

1. Aramudala: Wannaku Nilame of the Maha Aramudala.

The King's Treasurer: see Davy, p. 151.

References in *Gazetteer*:

p. 550: Koswatte Seneviratne Madiyanse (Raja Sinha II)

p. 677: Aramudala Mohottala murdered in the reign of Kundesala

pp. 62, 177: Kolanda Hettirala's son Aramudala Kankanana Mala under Kirti Sri

p. 728: Pilama Talawwa

pp. 763, 768-9: Rambukwella in 1796

p. 49: Migastenne Adigar

In 1798 and 1818 there were two.

Sinha was succeeded by a brother of his wife, Sri Wijaya Raja Sinha, who in turn was succeeded by a brother of his wife, King Kirti Sri. King Rajadhi Raja Sinha was succeeded by a nephew of his wife'. He also quotes Jud. Com. Diary for 12th July, 1827: 'Dehigama Diwa Nilame stated that when the King was brought to the Palace to be installed, there were many other candidates for the throne, and a Moorman of Polgolla in Dumbara being interested for one of the other candidates wanted the procession to go in a different direction from the King's quarters. When the King was secured in his Government he confiscated the whole of the Moorman's property'.

Though Hayley relies mainly upon Davy (p. 159), Lawrie does not quote him on this point (though he quotes him on many others), but sets out from Bertolacci (p. 459) the answers given to Governor Falck in 1769, to which Hayley refers only in a footnote. He also quotes from Percival (pp. 249-50) the story that the selection was sometimes made by an elephant, though he also quotes Percival's statement that he did not believe it.

CHAPTER III

THE CHIEF OFFICERS OF MODERN TIMES

Section 1

ADIGARS, DISAWAS AND RATEMAHATMAYAS

H. 48. Adigars

'When the Adigars passed through the streets of Kandy, the inhabitants were, by custom, obliged to shut themselves in their homes and passengers stood aside and made obeisance till the Adigars passed'.

Resid. Diary, 10th March, 1818.

'In 1817 Ehelepola Maha Nilame met Ratwatta, Disawa of Matale, and accused him of failing to do him honour, and disgraced the Disawa and deprived him of the insignia of his office. Ratwatta Disawa's followers fled and he was left helpless on the high road. Ehelepola shortly afterwards appeared before the Governor with several elephants and with between 2,000 and 3,000 people and apologized for his conduct to the Disawa'.

Gazetteer, p. 203.

H. 49. Disawas

'The Disawa of old was the proper person to decide land cases within their jurisdiction'.

Jud. Com. Diary, 22nd March, 1820.

'Plaintiff ploughed and sowed and when the crop was ripe defendant tied a Bola on which plaintiff preferred a complaint before the Disawa and received a Wattoo ola to reap the crop'.

Jud. Com. Diary (no date given).

'In attending on the King no Disawa could use a palanquin'.

Rev. Com. Diary 17th November, 1818.

'The Lieutenant-Governor issued two licences in favour of the Disawa of Matale and the Uda Gabada Nilame (Kapuwatte) to use palanquins within the Maiwili Ganga and the ancient Gravits of Kandy, in consideration of their old age and rank as principal chiefs'.

Rev. Com. Diary, 17th August, 1821.

Ratemahatmayas

'I think that Ratemahatmaya as the title given to the headmen of these divisions is comparatively modern. The older title was Ralahami or Raterala'.

'Mr. Bell (Antiquarian Research, Kegalle, p. 3) says "the Ratemahatmayas were of less rank than the Disawas, their duties were alike, but less responsible. No flag was allowed them, no armed guards and palanquins; . . . In civil matters Ratemahatmayas deputed their authority to Korales" '.

Section 3

OFFICERS OF THE PALACE

H. 51. Lawrie has numerous notes on this subject, but most of them have not been corrected and some are difficult to follow. He lists some thirty different officers. In the main his material comes from D'Oyly and Davy.

1. Aramudala: Wannaku Nilame of the Maha Aramudala.

The King's Treasurer: see Davy, p. 151.

References in *Gazetteer*:

p. 550: Koswatta Seneviratne Madiyanse (Raja Sinha II)

p. 677: Aramudala Mohottala murdered in the reign of Kundesala

pp. 62, 177: Kolanda Hettirala's son Aramudala Kankanan Mala under Kirti Sri

p. 728: Pilama Talawwa

pp. 763, 768-9: Rambukwella in 1796

p. 49: Migastenne Adigar

In 1798 and 1818 there were two.

2. Aspantiya rala

'The officer in charge of the King's horses and stables. His title was Aspantiya Mohandiram Nilame: under him was the Aspantiya Kankanama... Aspantiya Mohandiram was usually a man of rank. Pilama Talawwa in 1798 held the office along with that of First Adigar'.

3. Attapattu

The officer in charge of the royal arms. See Davy, p. 152. 'Noticed that in the King's reign the Attapattu Lekam declined to hear a case because the defendant's family belonged to the Katupula Department; he referred the parties to the First Adigar Pilama Talawwa who heard the case'.

Jud. Com. 3rd Div. 1823.

4. Batwadana Nilame.

The King's caterer. See Davy, p. 183.

References in *Gazetteer*, pp. 343, 355, 386, 421, 448, 449, 450, 484, 512, 632, 652, 738, 783, 860, 875.

'Talawinni in reign of last King'.

Jud. Com. Diary, 27th July, 1818.

5. Betge Mohandiram Nilame.

Head of the king's physicians and had superintendence of the medical store: see Davy, pp. 154-5.

References in *Gazetteer*, pp. 51, 242, 274, 345, 394, 395, 601, 612, 627, 668, 709, 740, 826, 872, 879, 902, 920, 923.

6. Boudikkulla Lekam.

Head of the Department in charge of the king's iron cannon: Davy, p. 150. 'I find no other notice of this office'.

7. Diyawadana Nilame of the Palace.

Superintended the royal bath and washed and combed the king's hair. Davy, p. 187. See also D'Oyly.

8. Dunukara Lekam.

'Chief of the archers. After this office was abolished the people of that Department supplied turmeric to the kings'.

See *Gazetteer*, pp. 142, 150, 304, 308, 597, 807.

9. Gabada Nilame.

The officer in charge of the royal stores: Davy, p. 151. Numerous references in *Gazetteer*.

10. Gajanayaka Nilame.

'Elephant chief: first officer of the Household Department': Davy, p. 144.

Gazetteer, pp. 37, 146, 185, 278, 374, 376, 384, 739, 740.

11. Haluwadana Nilame.

Had charge of the king's wardrobe and was required to be present to help in dressing the king: Davy, p. 153.

Gazetteer, pp. 23, 50, 63, 116, 117, 135, 172, 201, 206, 236, 324, 350, 351, 388, 396, 495, 500, 672, 673, 706, 883, 884.

12. Hetapenage Mohandiram Nilame.

Commanded the Appuhamies and gentlemen in waiting. Had under him a Lekam Mahatmaya or a Kankanam Nilame: Davy, p. 152.

Gazetteer, p. 216.

13. Hunubadde Nilame.

'Mr. Wright ordered the Hunubadde Nilame at Kandy to furnish 50 men of his Department to prepare lime for the military sinie (? stores) at Badulla. They are to receive pay and must bring the necessary implements to cut the rock'.

Col. Sec. MSS., Vol. 522.

14. Ilangama.

Had command of performances of various kinds: Davy, p. 156.

Numerous *Gazetteer* references.

15. Itandeniya.

See D'Oyly and *Gazetteer*, pp. 479, 684.

16. Kodituwakku.

Had charge of the Ordnance Department and of the Paduwas whose duty it was to carry the gingels: Davy, pp. 146, 150. See also D'Oyly.

17. Kottalbadde Nilame.

Kottalbadde people perform iron work for buildings: D'Oyly.

Other quotations, but no references given.

18. Kuruwe Lekam. In charge of elephants. Long quotations without references.

19. Kula Hewa Mohandiram.

In charge of the Paduwas who perform menial offices for the king and the disawas.

20. Kunam Maduwe Lekam.

In charge of the king's palanquin. Davy, p. 153.

21. Madige Mohandiram (or Lekam).

In charge of the Madige people, consisting of fishers and Moormen, who performed the duty of carriage by bullocks: D'Oyly.

22. Maduwe Maha Kankanam.

Great steward of the venison room. Also in charge of the hunting dogs. But from King Kirti Sri the Maduwe were royal guards.

23. Maraliya Muhandiram.
Commanded a class of fencers. Davy, p. 158.
24. Nanayakkara Lekam.
No particulars.
25. Padikara Nilame.
In charge of the paid soldiers.
26. Panawide Karune Nilame.
Prepared betel and presented it to the king : Davy, p. 154.
27. Patti Vidan Nilame.
Superintendent of the King's cattle under the care of the Patti people. Davy, p. 150.
28. Sinbarade Karayo Mohandiram Nilame.
Had charge of a company of tom-tom beaters : Davy, p. 156.
29. Sudaliya Mohandiram Nilame.
Commanded a class of fencers who fought with the Maraliya fencers.
30. Tamboru Mohandiram Nilame.
Commanded the drummers and trumpeters : Davy, p. 156.
31. Wedikkara Lekam.
No particulars.

PART II

THE ADMINISTRATION OF JUSTICE

CHAPTER I

THE SINHALESE COURTS

Section 2

THE GANSABHAWAS

- H. 59. 'A Gansabhawa assembled at Molagoda to divide a field between two brothers. It had difficulty in determining the line of division, when a cobra crossed the field, and the Gansabhawa unanimously adopted the line of its path'.

Gazetteer, p. 603.

'The Jud. Com. ordered Korale of Madarsapattu and Harispattuwa to convene a Gansabhawa on the spot to ascertain the position of the trees'.

Jud. Com., 16th November, 1821.

'A Gansabhawa assembled to hear the complaint of a family that a member of it was going to give away his land to a stranger. Advice was given and seemingly acquiesced in but not followed'.

Jud. Com., 11th September, 1827.

Section 5

THE COURTS OF THE GOVERNMENT OFFICERS

H. 68. **Ratemahatmayas**

'The chiefs stated that except in time of war Ratemahatmayas were not authorized to grant Sittus'.

29th May, 1819.

'The land which belonged to Walalgodeya situate in the village Narambedda in the Diyaladahamunupattu of the Kinigoda Korale, being claimed by his daughters Sobani and Siridari against his nephew Kiri Honda and they having come to law was investigated and on the ground that Kiri Honda had rendered assistance to Walalgodeya at the approach of his death and obtained from him a Talpot for the lands . . . these lands with their appurtenances are adjudged in paraveni to him the said Kiri Honda in the year of Saka 1717 (= 1795 A.D.) . . . and this Sittu granted accordingly at Attaragama Rajaguru Bandara Mahatmaya who holds the offices of Basnayaka Nilame of the Alutnuwara and Hanguranketa Devales of the Maha Devale in Kandy'.

No. 1062.

H. 69. **Disawas**

'Notice of Kobbikaduwe Disawa of Nuwara-kalawiya hearing a case divers times and giving a decree'.

Jud. Com., 18th January, 1818.

'Whereas the field Moragaha Kuru Cura of one amuna, with the houses, gardens and high and low grounds attached thereto, situate at Nilannaruwa in the Pallesiya pattuwa, Udugoda Korale, was then paraveni property of Kalu Duraya : the said property has been granted to the said Kalu Duraya to be possessed by him, he having performed the usual rajakariya. This Sittu was granted . . . in the year of Saka 1630 (= 1708 A.D.) by me Monaruwila Rajapaksa Wikramasekera Mudiyanse Ralahami, who holds the offices of Batwadana Nilame, Diyawadana Nilame, Haluwadana Nilame, Matale Disawa, and Disawa of Taman Kaduwa and Seven Korales'.

Gazetteer, p. 642.

'That which Meniki and Kira Duraya of Lilagama and Pahesiya Pattuwa of 15 lahas of Welemada Kumbura at Bulatwatte and 8 lahas of field lying on the lower side of the stone at Kirigama Dalupota, lodged a complaint—the alleged case was heard and the said two pelas and three lahas of field had been decreed and granted to Kira Duraya, and together with the garden and house and the high and low ground premises he had in his possession, the Talpot from the original proprietor and because it appeared that he had right thereto, and to that effect this Sittu was given to him . . . in the year of Saka 1696 (=1774 A.D.) by Ketekumbura Rajapaksa Wikramasinha Amarapati Wabola Mudiyanse Ralahami to Mapattuwa Murapola. Mohandirama, Tappa Kara, Mohandirama Azutukete Wannaku Nilame, Maduwe Lekam, Udarata Kottal Badde Nilame of Haloluwa and other villages and of Maha Madige, Hattaka and of the Kandy Mahasena Dewamandirayaka Basnayake Nilame, the Ratemahatmaya of Udunuwara, Disawa of Udapalata and Gabada Nilame'.

'Nanduwa Hewaya's son Hatana Dingiri and Naidi Hewaya's son Appuwa disputed and laid claim for the field Uda Bittarapala of one pela, which belonged to Haragahapitiya Malinda Hewaya of Owilakanda in Kohonsiya Pattuwa of Matale. Whereat on enquiring into the matters and grounds of claims of both parties it was found that Appuwa had no right or title to the field and that Hatana and Dingiri have right and title to it upon deeds obtained by them. Therefor the one pela of the field is adjudged to Hatana and Dingiri including the high and low ground, houses, gardens and plantations thereto attached in order that the two may possess the same quietly in equal shares. To this effect this Sittu was granted . . . in the year Saka 1710 (=1788 A.D.) by me Erawawela Wikremasinha Wijayawardena Nawaratne Rajapakse Wahala Mudiyanse Ralahami . . .'.

'A dispute having arisen between Rasigama Kira and Menika in respect of the field Nila Aswedduma it was heard and enquired into when it was decided that the field be conferred on Menika—this Sittu was granted by Pusselle Gabada Nilame Ralahami in the year of Saka 1727 (=1805 A.D.) . . .'.

The Adigars

'The Chiefs said that during the King's Government none of his servants could be punished, or even ordered to take off their hats, by any Chief even the Adigars, except the meanest, those who bring food and water'.

Jud. Com. Diary, 7th April, 1817.

'Menikrala (charged with theft) being a Kandyan under the jurisdiction of the first Adigar, was sent to him by the Magistrate to be dealt with according to the custom of the country'.

9th April, 1816.

Section 6

THE MAHA NADUWA

H. 70. 'The Vellassa Disawa stated that when the principal chiefs were absent from Kandy for a considerable length of time, the complaints in the Audience Hall were heard by the inferior chiefs who made their report to and received the direction of the King, in like manner as was the custom of the superior Chiefs when in Kandy.

Inferior chiefs were not entitled to sit on chairs'.

Rev. Com. Diary, 7th March, 1817.

'Notice of a case heard in the Mudra Maduwa (about 1802 A.D.) before Puswella Gabada Nilame, Galegoda Ratemahatmaya, and Kalaluurwakka Ratemahatmaya'.

Jud. Com. Diary, 9th December, 1820.

'Notice of a case heard thirteen times in the Mudra Maduwa'.

Jud. Com. Diary, 20th December, 1820.

'Notice of a case about land ordered to be heard in the Mudra Maduwa by G. Ehelapola Adigar, Millawa Gajanayake Nilame, Weliwita Kuttaha Lekam and Puswelle Gabada Nilame'.

Gazetteer, p. 278.

Section 7

THE KING

H. 71. 'Notice of a case between Doranagama Pihanarala and Wattagama Punchirala, son of Wattagama Maddumarala. It was decided in the latter's favour by the King in the Mudra Maduwa in 1810'.

Jud. Com., 12th July, 1819.

'The last King did not hear any cases *personally* until Puswelle was appointed Maha Gabada Nilame—this was three or four years after he ascended the throne. The first case that he tried was that of Moratota Unnanse'.

Jud. Com. Diary, 8th March, 1824.

'The King appointed a special officer Hantiya Nilame to hear and report on all cases regarding land belonging to Asgiriya Vihare'.

Jud. Com., 28th August, 1817.

'Attaragama Nilame prostrated himself before the last King and complained of an injustice done to him by the Adigars. The King ordered an enquiry in the Great Court by Migastenne Adigar, Dehigama Udugabada Nilame, Mullegama Disawa and others. They decided in favour of Attaragama and the King confirmed their decision. Afterwards one of the defendant's family climbed a coconut tree in the Nata Dewale grounds opposite to the Palace and cried for redress. The King ordered a new trial, but none was held'.

Jud. Com., 3rd July, 1822.

'A complaint had first been made to Ellepola Nilame but Bulat Surulla having been given by one party, he adjudged in his favour. Afterwards Unguwa complaining of the injustice, went before Migastenne Maha Nilame who said he could not settle the case, it must be represented to the King and desired Unguwa to prostrate himself.

Unguwa did so and the case was heard and the whole land was adjudged to Unguwa.

The other party (Pihiligedera Naide) said if he was beheaded, he could not give the land unless they swore. Orders were given that both should swear at Alutnuwara Devale. They went and swore in hot oil and stayed three days at the Walawwa of Migastenne Maha Nilame to see if their hands burned. The Maha Nilame after seeing their hands divided the land'.

Jud. Com., 8th July, 1829.

CHAPTER IV

PROCEDURE

Section 5

TRIAL BY OATH

H. 85. 'The Ratemahatmaya said that as both parties were descendants of chieftains, he would not give the order for the oath to be taken, but they might go before the First Adigar for that purpose'.

20th October, 1816.

'A blacksmith challenged Dehigama Gabada Nilame to swear by ordeal. It was not allowed, as there was no such custom for noblemen to swear with low caste men'.

25th November, 1819.

'In 1813 a Disawa refused to let a very young woman take an oath'.

Jud. Com., 16th April, 1817.

'By order of the King oaths were taken even after a decision in the Maha Naduwa'.

8th July, 1819.

H. 86. Oath at the Devale

'The chiefs say that the plaintiff should be obliged to swear that the defendant is indebted to him for board, and the usual mode is that the defendant should put the money on the steps of the Dewale, and the plaintiff, after swearing that the demand is just, takes it away from defendant; but the money is not to be taken until plaintiff swears'.

8th July, 1820.

'The defendant having denied the debt *in toto*, Court ordered the defendant to go to the Dewale and take oath'.

22nd January, 1819.

'Moladande Nilame directed parties to swear before Hagame Vihare—a day or two after the oaths were taken the ripe crop of the field was destroyed by an elephant'.

28th April, 1824.

'Parties went before Dehigama Nilame when they were permitted to swear for their rights by bringing out the image from the Udurawana Dewale to the field'.

27th November, 1824.

'Defendant (a Moorman) ordered by the Judicial Commissioner to give oath at the mosque of Warakamure (in Matale) that the accounts filed by him are true and correct'.

22nd April, 1828.

H. 87. Oath by Paddy

'When the crop was ripe appellant's party took men to reap it. Respondent took up a handful of paddy and placed it in the customary manner to Maha and altar, so the appellant and the respondent chew the paddy, having first thrown some at each other declaring their right and the Gods were to bear witness by some sign in seven days. In these days the buffalo calf of the respondent was killed by a cheetah; no ill happened to the appellant. After this the appellant stated to the Mohandirams that they could be considered guilty for having made oath without the knowledge of the Disawa, and he called the respondent before the Disawa; he refused to go so the Disawa ordered an oath by hot oil'.

6th September, 1819.

(It is not clear why the appellant challenged the decisions of the Gods in his favour).

H. 88. By Earthen Vessels

'The mother and son quarrelled and went to law before Miwature Lekam who directed them to swear for the land. The mother placed swearing pots upon the disputed part of the field but the son, thinking it would be impious to swear against his mother, kept out of the way. The crop was half grown when the pots were placed; and when it was ripe Kowrala threw away the pots and reaped it. But the same day he was bitten by a snake and two or three days afterwards one of his own and one of his brother's buffaloes died and the crops of the brother were completely destroyed by the elephants'.

31d September and 10th November, 1823.

'Parties took their oath by placing pots on the ground, but Ponna having experienced various misfortunes in consequence of the oath lost his suit'.

21st October, 1824.

'In the reign of Rajadi Raja Sinha parties were permitted to swear on pots placed on the disputed land'.

19th July, 1821.

By Striking the Earth

'On the Judicial Commissioner's (Mr. Gay) order, parties took their oath on the field. Neither of them suffered. When asked how the case should be decided the First Adigar said that according to custom the land should be divided equally between the parties. The Commissioner made order accordingly'.

20th December, 1821.

H. 89. Upon Paddy

'Kaluwane Arachchi v. Kaluwane Kawrala. Plaintiff said to Defendant 'Go you to the threshing floor of my field and after swearing there to the truth and justice of your claim take the six lahas of grain'.

20th November, 1821.

'In 1817 parties swore to the truth of their respective claims in the Pattini Dewale. A little paddy from the field in dispute was taken to the temple and the ornaments of the Goddess being brought out with a white cloth suspended over them they pounded the paddy into rice before the ornaments, and boiling ate it and recited their affirmations.

The period for ascertaining the truth of their relative allegations was three months or three years.

Boratali is now lying ill with her body swollen so much that she cannot move.

The defendant's wife is dead and his house was burned down accidentally all of which the plaintiff attributes to the vengeance of the Goddess of small-pox for the oath taken in presence of her ornaments'.

Jud. Com. Diary, 4th March, 1820.

By Kitul Trees

'Dispute as to kitul trees on a boundary line. The chiefs stated that such cases were generally decided by a particular form of oath with imprecations, viz. that both parties go to the tree in the evening and after each pronouncing imprecations upon the person making a false claim to the tree one of the parties hangs up the ola toddy vessel to the flower where it remains all night. The parties return next morning when imprecations are again pronounced and the toddy vessel is taken from the tree. If the tree has given out a sufficient quantity of toddy it is then adjudged to the party who tied up the vessel; but if the quantity of toddy be obviously short of the quantity that might have been expected then the judgement is in favour of the opposite party'.

16th November, 1821.

Section 6**TRIAL BY ORDEAL**

H. 90. All the cases quoted by Lawrie are of trial by hot oil. Trial by red hot iron and by cobra were obsolete before the Kandyan Convention.

'Land divided when the fingers of both the parties were burned'.

8th July, 1816.

'They were ordered to swear. The drafts of two swearing olas were written by Pannalla Mohottala in the Hall of Audience. Afterwards the four copies were written in the Walawwa and the parties made their oaths and neither were burned; and so the land was divided equally between them'.

29th May, 1829.

'In the reign of King Narendra Sinha (commonly known as Kundasale) Nuwarawewe Mudiyanse sent people and cut off the tusks of an Eta which fell at the village Maha Kalan Kuttiya at the limits of Medapattu and Hatalispattu: upon which Olupelugawa Wanniya complained and disputed. Both went and swore by oil at the Sri Mahabodhi at Anuradhapura. Nuwarawewe Mudiyanse was burned and refused to give up the Etdat and his divi sittuwa for two days, during which Olupelugawa Wanniya remained at the tree without food and the other fearing greater Soliya gave up both to him'.

Sir J. D'Oyly's Notes.

'The Adigar caused swearing olas to be written and plaintiff and defendant going to Dodanwela Dewale made oaths. The following day their fingers were examined and the defendant's fingers being found burned, the Adigar ordered the debt to be paid to defendant and land to be taken by plaintiff'.

Jud. Com. Diary, 4th December, 1818.

'Divi sattu or swearing olas were made out and both parties went to Alutnuwara Dewale and swore there. The hands of the Muhandiram were burned by the hot oil, but Mudianse's were not'.

6th September, 1819.

'Ratwatte Disawa ordered both parties to swear at Alutnuwara Dewale on hot oil. Fingers of both parties were burned, the Disawa divided the land between them'.

11th September, 1819.

'The Disawa ordered parties to swear on hot oil at Dambulla Dewale. After the oaths, they came to Kandy, the Disawa looking at their hands said they were not burned and ordered the lands to be divided'.

15th November, 1819.

'The Disawa ordered parties to swear. Divi sattu were made out and both parties went to Alutnuwara Dewale and swore there. The hands of one were burned by the hot oil but the two Divi sattu and a Wattooru to receive possession to the appellant'.

6th September, 1819.

'Pilama Talawa Disawa of Four Korales referred the case to the Chiefs at the Audience Hall. They ordered oaths to be taken and referred the parties back to the Walawwa. Divi Sattu had previously been written at the Audience Hall, but not being thought proper, new ones were directed to be written at the Walawwa. The oaths were for the 2 pelas and 5 lahas which had been possessed by the plaintiff and also for 7 lahas and belonged to Ambagalla Mohandiram. Plaintiff said he could not swear for them. The defendant giving Bulat Surulla got the oath written, so he and plaintiff went to Alutnuwara Dewale and swore on oil. Plaintiff was not burned and defendant was burned, but the Dissavony chiefs representing that his fingers also were not burned, so the swearing oaths were given one to each. (Dispute went on as before)'.

Jud. Com., 29th May, 1819.

'The parties swore in hot oil... his hand was burned, but he pretended to be sick of dysentery and kept himself at home for twenty days. After that he exhibited his hand and bribed the chiefs, when the lands were divided'.

15th February, 1824.

'Plaintiff's father once swore for the land, got his fingers burned, but by bribery he got plaintiff's land'.

24th February, 1824.

Section 8

TRIAL BY WITNESSES

H. 94. 'Under the King's Government, it was the general practice not to swear chiefs to the evidence they give, either in civil or criminal matters'.

Rev. Com. Diary, 27th October, 1818.

'In 1819 Tamil witnesses were sent to the Kataragam Dewale to be sworn after giving evidence in Court'.

1st November, 1819.

'Noticed that witnesses were sworn before a chief by lifting up their hands to the Temple'.

16th March, 1824.

'The chiefs said there was no particular age according to custom below which a witness was rejected without hearing'.

Rev. Com. Diary, 21st December, 1816.

'Evidence of brothers inadmissible by Kandyan law'.

20th November, 1819.

'The Assessors said that the evidence of a person deeply interested in a case is not admissible, but he may be interrogated'.

2nd November, 1826.

'The Assessors are unanimously of opinion that such gross subornation and perjury should not go unpunished and concur with the Judicial Commissioner that plaintiff and first witness should be fined 25 rix-dollars and that the other three witnesses should be punished forthwith with 25 lashes'.

19th February, 1823.

'The Assessor referred to the constant practice of giving false evidence evinced in every case from Dumbara that has of late been brought before the Court, and observed that an example should be made of the witnesses'.

23rd December, 1823.

'The witnesses who deposed before the chiefs appointed by the king to try the case, were visited by misfortunes in consequence of the false evidence they gave. The wall of a house fell on one and killed him; another was sick and died; and a large quantity of paddy belonging to a third witness became rotten'.

Jud. Com. Diary, 1st March, 1820.

'The Adigar caused swearing olas to be written and plaintiff and defendant going to Dodanwela Dewale made oaths. The following day their fingers were examined and the defendant's fingers being found burned, the Adigar ordered the debt to be paid to defendant and land to be taken by plaintiff'.

Jud. Com. Diary, 4th December, 1818.

'Divi sattu or swearing olas were made out and both parties went to Alutnuwara Dewale and swore there. The hands of the Muhandiram were burned by the hot oil, but Mudianse's were not'.

6th September, 1819.

'Ratwatte Disawa ordered both parties to swear at Alutnuwara Dewale on hot oil. Fingers of both parties were burned, the Disawa divided the land between them'.

11th September, 1819.

'The Disawa ordered parties to swear on hot oil at Dambulla Dewale. After the oaths, they came to Kandy, the Disawa looking at their hands said they were not burned and ordered the lands to be divided'.

15th November, 1819.

'The Disawa ordered parties to swear. Divi sattu were made out and both parties went to Alutnuwara Dewale and swore there. The hands of one were burned by the hot oil but the two Divi sattu and a Watt-ooru to receive possession to the appellant'.

6th September, 1819.

'Pilama Talawa Disawa of Four Korales referred the case to the Chiefs at the Audience Hall. They ordered oaths to be taken and referred the parties back to the Walawwa. Divi Sattu had previously been written at the Audience Hall, but not being thought proper, new ones were directed to be written at the Walawwa. The oaths were for the 2 pelas and 5 lahas which had been possessed by the plaintiff and also for 7 lahas and belonged to Ambagalla Molandiram. Plaintiff said he could not swear for them. The defendant giving Bulat Surulla got the oath written, so he and plaintiff went to Alutnuwara Dewale and swore on oil. Plaintiff was not burned and defendant was burned, but the Dissavony chiefs representing that his fingers also were not burned, so the swearing oaths were given one to each. (Dispute went on as before)'.

Jud. Com., 29th May, 1819.

'The parties swore in hot oil... his hand was burned, but he pretended to be sick of dysentery and kept himself at home for twenty days. After that he exhibited his hand and bribed the chiefs, when the lands were divided'.

15th February, 1824.

'Plaintiff's father once swore for the land, got his fingers burned, but by bribery he got plaintiff's land'.

24th February, 1824.

Section 8

TRIAL BY WITNESSES

H. 94. 'Under the King's Government, it was the general practice not to swear chiefs to the evidence they give, either in civil or criminal matters'.

Rev. Com. Diary, 27th October, 1818.

'In 1819 Tamil witnesses were sent to the Kataragam Dewale to be sworn after giving evidence in Court'.

1st November, 1819.

'Noticed that witnesses were sworn before a chief by lifting up their hands to the Temple'.

16th March, 1824.

'The chiefs said there was no particular age according to custom below which a witness was rejected without hearing'.

Rev. Com. Diary, 21st December, 1816.

'Evidence of brothers inadmissible by Kandyan law'.

20th November, 1819.

'The Assessors said that the evidence of a person deeply interested in a case is not admissible, but he may be interrogated'.

2nd November, 1826.

'The Assessors are unanimously of opinion that such gross subornation and perjury should not go unpunished and concur with the Judicial Commissioner that plaintiff and first witness should be fined 25 rix-dollars and that the other three witnesses should be punished forthwith with 25 lashes'.

19th February, 1823.

'The Assessor referred to the constant practice of giving false evidence evinced in every case from Dumbara that has of late been brought before the Court, and observed that an example should be made of the witnesses'.

23rd December, 1823.

'The witnesses who deposed before the chiefs appointed by the king to try the case, were visited by misfortunes in consequence of the false evidence they gave. The wall of a house fell on one and killed him; another was sick and died; and a large quantity of paddy belonging to a third witness became rotten'.

Jud. Com. Diary, 1st March, 1820.

' After the accession Ranawana Lekam ordered two people to swear for the land, which was done ; but it is stated that one suffered vengeance, first by being bitten by a snake, second by having had the foot wounded by a pointed stick when going to a temple '.

20th December, 1821.

H. 96. Hayley omits a paragraph from D'Oyly's order of 1823 :

' The evening is mentioned merely because it is the practice for the Aratchy, etc., after the Court is closed, to conduct the witnesses who had been examined in the course of the day, to the Dewale for the purpose of seeing them sworn, but any part of the day is eligible '.

Section 13

FEES

H. 102. **Bulat Surulla**

' The Judicial Commissioner ordered Uda Gabada Nilame to pay back a Bulat Surulla he had received from a Mohandiram as he had been removed from office immediately afterwards '.

8th July, 1817.

' According to the custom of the country Bulat Surulla was returned when the giver did not gain his suit '.

21st December, 1818.

' Mattamagoda Disawa stated that about 1810 he received a Bulat Surulla of two pagodas from the plaintiff Bopitiya Arachchi, and having heard his case, decided it in his favour, delivering the lands in dispute to him. The plaintiff had no right to get back the Bulat Surulla '.

5th November, 1826.

' When the plaintiff made a present of a pagoda and cakes, the Adigar heard the case '.

7th December, 1818.

PART III

CRIMES AND PUNISHMENTS

CHAPTER I

GENERAL CHARACTER OF THE CRIMINAL LAW

H. 105. **Abetment**

Hayley's reference to conspiracy to commit treason is supported by a note in Lawrie, though it has no reference :

' In the last reign, Arawe Adigar attempted to dethrone the King and to make Mampitiya Bandara, King : the attempt failed, the leading conspirators were put to death '.

CHAPTER II

OFFENCES AGAINST THE STATE

H. 107. Lawrie says that he does not know who were the people who committed adultery with the King's wives nor those who had intercourse with his concubines.

CHAPTER III

OFFENCES AGAINST THE PERSON

Section 1

HOMICIDE

H. 108. **Murder**

' Meddumarala, having committed murder, took refuge at Unambuwe Disawa's Walawwa. The murderer was given over to plaintiff's custody. Afterwards the lands of the murderer were made over to the relations of the murdered man and the murderer confined at Walapane ; eventually the plaintiff got the lands by giving up the murderer, and in consideration of his having given paddy and lent 250 Ridis to the murderer to bribe the chiefs. Before Pilame Talawe was put to death the land was taken by the King, but on complaint it was restored to plaintiff '.

29th March, 1817.

' On being questioned as to the extent of punishment the assessors (chiefs) stated that, according to the custom of the country, the lands and property of the murderer should be given over to the widow and children of the man murdered, and that in addition, persons convicted of murder are liable to suffer death, or they may be flogged through the four streets of Kandy and be banished for life or for a shorter period to Badulla or some other Gabada Gama, and they cite cases in which such punishments have been inflicted for such cases—one the case of a painter who killed another painter and being found guilty, was put to death with spears and then hung on a tree. Another of a man who murdered a washerman who was flogged and imprisoned for some years at Walapane '.

Jud. Com., 11th July, 1817.

' A man having confessed that he inflicted a violent blow with an axe on the head of the deceased and which caused his death, the chiefs said that the man was guilty of murder, that in the time of the deposed King's

Government, crimes of this nature were sometimes punished with death, sometimes with flogging and imprisonment only, and sometimes no punishment at all, according to the King's pleasure'.

Jud. Com. Diary, 23rd October, 1816.

Culpable Homicide

'Two washermen of the King having quarrelled about a field, one of them killed the other. The accused was imprisoned in the Maha Hirage for some months, afterwards flogged through the streets and transported to Etanwela.

A similar case, the same punishment, but transported to Wanduragala'.

Resident's Diary, 1815.

'According to the customs of Kandy, a man found guilty of culpable homicide was sentenced to be led through the streets of Kandy, preceded by tom-toms and punished by flogging with twigs, and imprisoned for a few months in one of the gaols of the Provinces'.

Jud. Com. Diary, 21st October, 1816.

'A man convicted of culpable homicide sentenced to be whipped through the four streets of Kandy in the customary manner and to be imprisoned in the village of Badulla for one year'.

Rev. Com., 20th November, 1816.

H. 109. Infanticide

'A woman found guilty of burying her female child was sentenced by the Judicial Commissioner to three years' imprisonment at hard labour in the Gabadawa and to stand in the pillory three times in the public bazaar of Kandy'.

Rev. Com. Diary, 27th November, 1827.

Section 2

SUICIDE

H. 112. 'A man committed suicide as he was implicated in the rebellion of Pilama Talawe. The king confiscated all the property belonging to the man as well as to his brother'.

1st September, 1823.

'One Dingirala and his brother Kawrala... had a quarrel when Dingirala hanged himself, and as was customary at that time the chiefs imposed a fine on Kawrala'.

30th April, 1824.

CHAPTER IV

OFFENCES AGAINST REPUTATION AND PROSPERITY

Section 1

SLANDER AND INJURY TO CASTE

H. 115. 'A Paduwa caste man committed rape on a higher caste woman: her relations advised her to hang herself and thus wipe out the disgrace, but she said she could not do it: whereupon her uncle with the consent of all her relations stabbed her to the heart and killed her. On being charged with murder the uncle said that according to the custom of the country there was no other way of wiping away the disgrace which had befallen the family than by killing the woman who had brought disgrace to it'.

Jud. and Rev. Com. Diary, 28th November, 1817.

'The Assessors say that it is no defamation of plaintiff's character to be told that she has had criminal connections with a man of higher caste than her own, which is of the Paduwa caste'.

No. 2936, 12th January, 1839.

'The prisoner found guilty of murder but considering the prejudices of the natives, mitigation of the punishment of death recommended.

Instances in which, in ancient times, in the upper provinces with the sanction of the King and in the Disavonies with that of the Disawas, women cohabiting with low caste men were delivered to parents, who put them to death to remove the disgrace, although there was no positive law permitting such acts of violence, the King's permission was necessary. Where no such sanction was given, parties were punished and fined for committing such acts'.

17th November and 12th December, 1820.

Section 2

SORCERY

H. 116. 'In the reign of King Rajadhi Raja Sinha.

One Naide made certain devil ceremonies called Diwel against one Narayerera, the latter having been informed of it, represented it to the King, who inquired into the matter; and on being found guilty Naide was flogged through the streets and imprisoned at Laggala'.

Resident's Diary, 1825.

CHAPTER V

Section 2

ROBBERY AND THEFT

H. 118. 'A Kandyan and a Malay stole two sacks of rice from the granary of the royal village of Wellata. The King enquired into the matter and found both parties guilty; they were flogged through the streets of Kandy and one transported to Laggala and the other to Etanvala'.

'Two persons found guilty of stealing the confiscated property of a Mohattala were flogged through the streets and afterwards impaled near Gannoruwa in the last King's time'.

Resident's Diary, 1815.

'1789, Kiri Naide broke into and stole from the granary of Panikki Mudiyanse, upon which the Mudiyanse seized the thief's lands in satisfaction of the loss'.

17th January, 1825.

'Noticed that, in the King's reign, a man found guilty of theft was made to pay a Wandiya or fine of 400 ridis'.

28th May, 1817.

'The chiefs are of opinion that the prisoner should be confined to gaol until he makes restitution to the complainant of the value of the clothes stolen, Rix-dollars 135; that after he has done so, that he be allowed thirty days to produce and convict the person he says committed the robbery; that if he fails to produce and convict the thief in that time he shall be again taken up and considered as the thief and punished as such the robbery having taken place in his house, the complainant having sworn him as the thief, and he having voluntarily engaged to deliver up the thief'.

Jud. Com. Diary, 8th July, 1817.

'A woman having admitted theft, the Judicial Commissioner sentenced her to have her hair cut off'.

7th April, 1819.

'Stated that a man's property was confiscated by the last King for having stolen his goats'.

19th August, 1823.

'The Assessors observed that persons who were guilty of robbery were liable to make free restitution, and however small the value of the article stolen might be; if they could not pay the value, they were liable to be taken as slaves by the proprietor of the stolen property. They give an

instance of a woman in the reign of Kirti Sri having stolen a cake of jaggery, and she being so poor as not to be able to pay the value. The King decreed that she should be given over to the person to whom the cake of jaggery belonged, as a slave. She afterwards bore children who are now slaves through their mother's petty delinquency'.

5th September, 1824.

'Four men being found guilty of robbery, the Judicial Commissioner sentenced them to be confined in gaol for twelve calendar months, and during that term be employed at hard labour in chains on the public works, and that at the expiration of that term they be flogged with twigs through the four streets of Kandy'.

8th July, 1817.

'In the last King's reign, a man convicted of robbery was confined in the great prison; his mother borrowed money to procure his release'.

11th March, 1828.

Section 3

ARSON

H. 119. Lawrie produces no example other than that mentioned by D'Oyly.

Section 4

FORGERY AND FALSE COINING

H. 119. 'Gangoda Duggannarala, being a man of some rank who had produced a forged ola, was sentenced to one month's imprisonment in the Katupulle village of Ampitiya; and deprived of the honours due to his rank during that time, and to pay a fine of ten dollars; and to be imprisoned until the fine is paid'.

5th July, 1820.

CHAPTER VI

OFFENCES AGAINST RELIGION AND MORALITY

Section 2

THE USE OF SPIRITUOUS LIQUOR AND GAMBLING

H. 120. 'The Chiefs declared that the drawing of fermented toddy and the fermentation of it were prohibited under the King's Government'.

Rev. Com. Diary, 7th March, 1817.

Lawrie gives the reference for the 1817 case mentioned by Hayley.
Jud. Com. Diary, 20th October, 1817.

Section 3

HUNTING AND KILLING ANIMALS

- H. 121. 'About a year before the accession Galanna Hettiya was flogged out of the country for shooting a wild hog in the Town of Kandy'.
4th November, 1826.

CHAPTER VII

PUNISHMENTS

- H. 123. 'Udupehille rala was put to death for having robbed the King's Treasury (*Gazetteer*, p. 653) or for forging a deed (*Ibid.*, p. 118)'.
H. 124. 'The Chiefs stated that according to their religion and the custom of the country a woman cannot be punished with death if found guilty of a crime for which a man would be so punished, but some other suitable punishment, i.e. by whipping through the streets and by imprisonment in a royal village and also by tying to a tree and whipping.

One of the chiefs, Ellepola, said that in the reign of King Narendra Sinha a woman was put to death by torture for murder and eating human flesh. It appeared that she had murdered more than one person who had lodged in her house.

In the same reign (he and the Second Adigar have heard) that a woman (Dukganna Unnanse) who lived in the palace was drowned in the river at Hanguranketa, for murder.

The deposed King put several women to death unjustly.

There was no instance of a woman put to death, found guilty of treason'.

22nd January, 1817.

Mampitiya Disawa of Seven Korales.

Mulugama Disawa of Wallapane.

Mudugala Basnayake Nilame.

Pamunuwe Basnayake Nilame.

Unanimously find a woman guilty of murder, liable to the punishment of death, but they state that according to the Kandyan custom the only mode of capital punishment inflicted on women is drowning. They knew but one exception to this and it was in the reign of King Kundasale, when

a Berawa woman, a slave of the Gabadawe, named Galkadie, was convicted of cannibalism and of having murdered about eighty persons; that number of skeletons were found in the well. This criminal had not only eaten of the flesh of her victims but had sold part of it as dried venison. This woman was put to death by being dragged over flinty stones until the flesh was torn off her body, but in all other instances of being executed for capital crimes of this nature they were drowned in a pool called Kaudamedlia (?) Walle in the River Palle Naba Oya on Hewaheta Oya, being bound hands and feet and weighed with a stone and then thrown into the pool'.

January, 1826.

Section 4

BANISHMENT

- H. 126. 'Wettewe late Ratemahatmaya ordered by the Judicial Commissioner to be confined in a katupulle village until he obeyed a decree of court'.

Jud. Com., 4th September, 1817.

'Polwatte Rala sentenced to be confined in a katupulle village for fifteen days for having disturbed to possession of a field after judgement was passed, in favour of the daughter of the late Unambuwe Adigar, and to be further imprisoned until the paddy forcibly taken by him be restored'.

4th October, 1817.

Section 7

DEGRADATION

- H. 128. **Cutting Off the Hair**

'A woman found guilty of selling arrack sentenced to have the konde of her hair cut off'.

20th October, 1817.

'A woman being found guilty of riot, the Judicial Commissioner ordered her konde to be cut off, as the only mode of punishing her, there being no proper place to confine a woman in, and flogging a woman being justly reprobated as an improper mode of punishment'.

18th October, 1817.

'A Malay woman being found guilty of purchasing from a soldier twenty rounds of ball cartridge, was sentenced by the Judicial Commissioner that her hair be cut off and that she be led through the streets of Kandy by beat of tom tom proclaiming her offence.

Jud. Com. Diary, 16th January, 1818.

PART IV

STATUS AND SOCIAL ORGANIZATION

CHAPTER I

THE IMPORTANCE OF STATUS

H. 132. Lawrie has no comments on this subject. It may be noted though, that the greater part of the three volumes which he devotes to private law deals with the Law of Persons. There are no Chapters dealing with the Law of Obligations, and the Law of Wrongs occupies one chapter only, which is devoted to Crimes and Punishments. The Kandyan Kingdom had a static society based on rank, caste and the ownership of land, three ideas which are closely associated.

CHAPTER II

SLAVERY

Section 1

THE NATURE OF SINHALESE SLAVERY

H. 133. Hayley does not make his point very clearly. It is made more clearly in the Proceedings of the Board of Commissioners, 25th July, 1829, quoted by Lawrie. A slave is the personal property of his owner and is liable to perform any service that the owner may require. 'Slaves are all personal property. None are attached to the soil, but can be disposed of in any way the proprietor may think proper'. Hence a slave is not a serf, holding land on servile tenure. Nor is slavery akin to a caste. The members of a caste engage in a particular employment, either for payment or as service for the tenure of land. The services are fixed by custom, whereas the services of a slave, even when he cultivates land, are in the discretion of the owner. It is, however, easy to imagine a class of slaves turning into a servile caste, and this probably happened in Jaffna. Apart from the four servile castes mentioned by Hayley, the Tamil castes bear such a remarkable similarity to the Sinhalese castes that they must have had a common origin. It seems probable that in the Kingdom of Jaffna the slaves turned into servile castes, while in the Kandyan Kingdom they did not.

H. 135. The documents cited by Lawrie, and quoted below, seem not to support Hayley's view that 'the Sinhalese bondmen were for the most part personal attendants'. See also *Hayley*, p. 141.

On the 28th October, 1824 the Assessors observed that 'most of the slaves in the country are descendants of Vellalas'. Hence the females 'retain the distinguishing caste appellative of Etana or Etani'.

A note by Sawers, not quoted by Hayley, says that 'the only people of inferior caste who possess slaves are the goldsmiths, they having been presented to some of the petty chiefs and workmen by the late King; but these slaves though not of a superior caste to the goldsmiths are very impatient of this thralldom to them'.

Knox (pp. 138-9) points out that 'slaves that are born of Hondru parents retain the honour of this degree', i.e. a person did not lose caste by becoming a slave.

Section 2

THE MANNER IN WHICH A PERSON BECAME A SLAVE

H. 136. 'The Board of Commissioners in July 1829 reported that of the slaves at present in the Kandyan country, some are descendants of native Kandyans, who from circumstances became slaves, and other are supposed to be the descendants of slaves brought from the continent of India by the first settlers.

Slaves were likewise acquired by purchase of children from their parents, in time of great scarcity, and by seizing free persons in satisfaction of pecuniary claims, but this practice has entirely ceased since the insurrection of 1818'.

'In 1829 a census of the slaves in the Kandyan Provinces was made:

	<i>Males</i>	<i>Females</i>
Uda Rate	380	425
Four Korales	82	81
Three Korales	2	8
Uva	151	146
Seven Korales	213	186
Matale	70	66
Sabaragamuwa	169	134
	1,067	1,046

Niti Nigh. points out that persons often attached themselves to Walawwas and that sometimes their descendants remained attached for generations; but this did not make them slaves.

'The Judicial Commissioner submits to the assessors if it be not common in this country, for free families to attach themselves for generations to the Walawwas of Chiefs, but at the same time the connection is purely that of goodwill and freedom.

The Assessors say that there is nothing more common'.

Jud. Com., 21st August, 1823.

Lawrie adds: 'Shows that Niti Nigh. written after 21st August, 1823'. But it does not seem to follow.

Slaves by Birth

'Held that Tikiri alias Yatapat Etana was not a slave, plaintiff having failed to prove that she was born of parents who were slaves'.

Jud. Com., 9th September, 1819.

'The Judicial Commissioner and Assessors stated. The child of a female slave is born a slave and the property of the owner of the mother whosoever the father may be—and this is an established rule wherever slavery exists. The father being a free man has no effect in emancipating the child whose mother is a slave—even the common natural rights of a parent are not allowed to him'.

Jud. Com., 28th November, 1824.

'The Judge and the assessors consider that plaintiff has succeeded in establishing that defendant's mother Sawi was his slave. As defendant admits that Sawi was her mother it follows that she must be the slave of the plaintiff'.

D.C., Matale 3505 Affd. by Supreme Court, 25th January, 1842.

Lawrie quotes a letter from J. Forbes, Government Agent at Fort MacDowall to the Judicial Commissioner, dated 15th September, 1829. The widow of the late Ratwatte Adigar claimed a woman and five children as slaves, but refused to receive the husband and father, who was a free man. Forbes asked whether 'I am to enforce the slavery of the woman and family and consequently separate them from the husband'. The Judicial Commissioner replied that 'you would in law be justified in compelling the slaves to submit to the authority of their proprietor, although at the penalty of being separated from the husband'. Since this was a civil case and the slaves must be valued at 100 ridis for every female and 50 for every male, the case was outside the Government Agent's jurisdiction. See also *Hayley*, p. 143.

H. 137. Sale or Surrender by Parents

'1694 A.D.

In the year of Saka 1616 on Wednesday the 8th day of the increasing moon in the month of Poson I Kombihami, the daughter of Nagaliyadde

Penikki Arachchila of Hewaheta, and my daughter Menikkana being very much in debt and as we are unable to discharge the said debt even by having sold four children, we have in consideration of 152 ridi absolutely transferred our paraveni property . . .'.
Gazetteer, p. 649.

Lawrie gives a different version of *Galagoda Kassakara Lekam v. Dingitti* (1824), which is Case 66 in Sawers' Notes: see *Hayley*, Appendix, p. 68:

'Galagoda late Kasakara Lekam, claimed Dingitti as his slave worth 100 ridi. The Judicial Commissioner Sawers remarked that 100 ridi in 1812 would have been an enormous price for a child and doubted whether according to Kandyan law it was lawful for parents to sell their children into slavery. The assessors unanimously gave it as their opinion that it was lawful. The defendant declared free and not a slave'.

Jud. Com., 12th May, 1824.

The plaintiff failed to prove that she was his slave: see *Hayley*, loc.cit.

H. 138. Capture or Condemnation

'Gift of a slave from the Gabadawa to Dunuvila Disawa in the reign of King Raja Sinha'.

Gazetteer, p. 196.

'Gift by King Raja Sinha of two Caffir women'.

Gazetteer, p. 200.

'Gift of a slave by Rambukwella Loku Mahatmaya by King Rajadhi Raja Sinha'.

Gazetteer, p. 784.

'In the Kandyan time high caste women who had disgraced themselves by connection with low caste men were sometimes consigned as slaves of the Crown to the royal village of Gampola'.

Gazetteer, p. 266.

'A vellala woman of Gonigoda stated that, ten days before the accession, she was banished as a King's slave to Gampola because she eloped with a painter to Sabaragamuwa'.

Gazetteer, p. 297.

Self-Sale or Seizure

'Noticed that a man unable to pay his debt his creditors seized his mother, wife and children and made them slaves'.

Jud. Com., 20th April, 1825.

Section 4

EMANCIPATION

H. 140. In 1837 it was 'held that a slave gains his liberty after six years'.

Gazetteer, p. 764.

The following note by Sawers, Judicial Commissioner, seems not to be in Hayley :

' 25th November, 1824.

The assessors are of opinion, and in this opinion the Judicial Commissioner concurs, that if a slave girl is given out in marriage to a free man (even though her emancipation be not formally declared or understood by fair implication at the time) and she is allowed by her own to remain with her husband a length of time, say beyond the period of prescription from (for ?) other civil rights, without the owner asserting his right of property in the woman by exacting services or imposing restraints of any kind upon her or by claiming her children as his property, in such a case prescription may be pleaded against the claim of the original proprietors and the woman and her offspring should thus be held to be free. But unrestrained freedom for so long a period will not be necessary to establish emancipation, when it can fairly be inferred that, at the time the woman was given out in marriage, it was understood that she, or her offspring by the free man, were to be emancipated.

S. Sawers,

J. C. '.

' The assessors observed. As most of the slaves in the country are descendants of vellalas who were originally free people, the females retain the distinguishing caste appellation of Etana or Etani, so that the mere designation does not always imply freedom from bondage.

An opulent person having too many slaves at his own house, will settle some of them on his distant estates ; or, having many slaves and not having the means of providing for them all, will allow some of them to quit his service and earn their livelihood wherever they choose.

Some owners, when a slave has absconded, will not be at the trouble of looking after him or reclaiming him. Hence Jana or Janappu may have been placed in some one of the above predicaments.

It shall therefore be ascertained by evidence on what terms Loku Ukku and others of Ratu Ukku's family went out of Elawela Mohandiram's house, when they followed the persons who were married away therefrom,

what treatment they have since received, and to what persons or families they have been allied and have associated with on a footing of equality, and what kind of services have been allotted them'.

28th October, 1824.

Section 6

THE RIGHTS OF THE OWNERS

H. 141. Sale of a Slave

' Nugawela Banda claimed Menika and Hapi as his slaves valued at £7.10s. and stated that Guni, the grandmother of the first and great-grandmother of the second defendant was in the year Saka 1683 (1761 A.D.) by her parents sold on a Talpot to Nugawela Madappu Nilame. Afterwards first defendant's mother and her four children were in Saka 1737 (1815 A.D.) transferred by the Nilame to Nugawela Basnayake Nilame'.

1395 D.C. Mad., *Gazetteer*, p. 653.

Bequest of a Slave

' *Wattarantenne Basnayake Nilame v. Kalu.*

Plaintiff stated defendant is her slave. Her mother was purchased by plaintiff's mother from a blacksmith ; on her death left defendant to plaintiff. Defendant was born in plaintiff's mother's Walawwa fifteen years after her mother was purchased. Defendant deserted five years ago. Defendant stated she was not a slave. True she resided in Plaintiff's Walawwa once. She quitted it three years previous to the accession and is now married and living in Kandy'.

18th December, 1828.

Gift of Slave as Dowry

' *Amunugama Palle Walawwa Tikiri Banda v. Dodanwela Udawalawwa Basnayake Nilame and Kiri Banda.*

Plaintiff claimed to recover from defendants the persons and services of five slaves. Plaintiff's mother, being an orphan, was adopted by Doluwa Ratemahatmaya and given in marriage to Amunugama Palle Walawwa Ratemahatmaya, on which occasion plaintiff's mother received as dowry from the Doluwa Ratemahatmaya a suit of clothes and jewellery and a female slave Gahapati. The other four slaves were her daughters'.

10555 D.C., Kandy.

Right to Recover by Action

See above cases and also 4705 D.C., Kandy :

' The assessors said that according to old Kandyan law a proprietor of a slave could sue for and recover his slave at any time during the slave's life.

UNIVERSITY OF CEYLON REVIEW

According to the Proclamation of 18th September, 1819 slaves were considered as movable property and the proprietors could sue for them at any time within six years from the period of desertion'. But there seems to have been prescription under the old law : see Section 4 of this Chapter (*Hayley*, p. 140) and the notes above.

- H. 143. 'Dahanayake Mudianse said that about sixty years ago a full grown woman and a child were worth 150 ridis (£ 5), the usual price'.

28th February, 1831.

'Amunugama late Lekam v. Keppitipola Banda.

Claim for six slaves valued 450 ridis or £ 15'.

In 1822, two women and six children were valued at 730 ridis or 333 rix-dollars. In 1838 a slave was valued at £ 4 (*Gazetteer*, p. 189). See also Nugawela Banda's case above, where two slaves were valued at £ 7/10s.

Section 8

THE ABOLITION OF SLAVERY

- H. 144. For cases in which Price, A.D.J. held that failure to register slaves had emancipated them under Ordinance No. 3 of 1837, see D.C. Kandy South, Nos. 3680 (24th July, 1841) and 3705 (11th August, 1841). Both were affirmed on appeal, though in the former case the order was varied.

CHAPTER III

CASTE

- H. 146. Lawrie has no separate Chapter on Caste. Caste came into the law by three routes :—

- (1) As a restriction on marriage ;
- (2) In relation to rajakariya or the obligations of service tenure ;
- (3) Through the Criminal Law ; because—
 - (i) Defamation of caste was a criminal offence ;
 - (ii) Punishments might vary according to caste ; and
 - (iii) Deprivation of caste was a lawful punishment.

These are dealt with by Lawrie under the Law of Marriage, the Law of Property, and the Criminal Law respectively. He gives no general account of the Sinhalese castes though, as noted above, he draws attention to the distinction between Armour and the Niti Nighanduwa. He suggests that the list in Armour's Notes was drawn up by a low-country man.

W. IVOR JENNINGS