

COMPENDIUM
OF
KAFIR LAWS & CUSTOMS,
BY
COLONEL MACLEAN, C.B.

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A

COMPENDIUM

OF

Kafir Laws & Customs,

INCLUDING

GENEALOGICAL TABLES OF KAFIR CHIEFS AND
VARIOUS TRIBAL CENSUS RETURNS.

COMPILED BY DIRECTION OF

COLONEL MACLEAN, C.B.,

Chief Commissioner in British Kaffraria.

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POPULATION RETURN—BRITISH KAFFRARIA,
1857.

COMPENDIUM

OF

KAFIR LAWS AND CUSTOMS, ETC.

I. Rev. H. H. Dugmore's Papers,

AS PUBLISHED IN THE "CHRISTIAN WATCHMAN" DURING 1846
AND 1847.

I. GEOGRAPHY OF KAFFRARIA.

The present article will contain a brief sketch of the Geography of Kaffraria, and is intended to be followed by others on the internal History, Manners and Customs, &c., of the Kafir tribes, derived from the observations made during a personal residence among them, and from native sources of information.

The general designation of Kaffraria has been applied to the whole of the territory extending from the Great Fish River to Delagoa Bay. In treating of the subject here, however, it will be restricted to the sense in which it is usually understood by the Cape Colonists, and confined to the tract of country occupied by the Amaxosa and Abatembu tribes, as the Amampondo and the Amazulu are sufficiently distinguished by their dress, mode of

warfare, and other customs, to warrant their being considered as quite distinct from the tribes above mentioned. Excluding then, the two latter, the country occupied by the Kafir tribes, in the colonial acceptation of the term, extends from the Great Fish River to the Umtata, eastwards, and from the sea coast to the chain of mountains containing the sources of the Keiskamma, Buffalo, Kei, and Bashee, northwards. Beyond the Umtata River, the territory of Faku, the chief of the Amampondo, commences; and beyond the mountain ranges to the north, lie the Tarka Divison of the colony, and a tract of country stretching to the Orange River, and occupied by migratory Dutch farmers, and a few scattered Bushmen.

The region thus bounded, and known by the general designation of Kafirland, may be estimated at about 250 miles in length, and 120 in average breadth. The line of sea-coast, and the courses of the boundary streams to the east and west, mark its limits in these directions with sufficient precision; but the northern boundary is irregularly defined, from the mountainous character of the country.

The mountains of Kaffraria, which run nearly parallel with the coast, are distributed into two distinct regions, divided by the course of the Kei. Those to the westward, and next the colony, are commonly known as the Amatoli range. The eastern ranges are called on the maps, "Fooboo's mountains," from the name of a Tembu chief who still resides amongst them. The most distant sources of the Kei lie beyond these, in the "Stormbergen," a branch of the Kwahlamba, the central range which divides

the waters of Southern Africa; the western side being drained by the numberless branches of the Orange River, which flows into the Atlantic; and the eastern by the numerous streams, much shorter in their course, which enter the Indian Ocean, between the Cape colony and Delagoa Bay.

The mountain regions of Kafirland, both eastern and western, present many magnificent scenes. They are sufficiently lofty to be covered with snow during most of the winter months. Their sides are clothed with noble forests, that abound with excellent timber. Streams without number have their sources among them, and wind their way through rich fertile valleys, where their waters, with scarcely any labour, might be made available for the purposes of irrigation to an incalculable extent. A lover of the Sublime and Beautiful in nature may find much to gratify his taste in a tour through the "Highlands" of Kaffraria. The perpetual verdure, the rich flora, the wildly picturesque views to be found among the crags and precipices, the extensive prospects which many commanding positions afford, and the pure and bracing mountain breezes, which bring health and vigour on their wings, combine to give an untiring interest to a journey through this region of beauty and grandeur.

At the feet of the mountains lies an irregular belt of plain upland, varying considerably in breadth, and skirting the southern base of nearly the entire range. It forms a kind of steppe or plateau, considerably elevated above the sea-coast division of the country, and terminating in that direction very abruptly. This tract consists of

undulating plains and open valleys, increasing greatly in extent as they proceed eastwards, abounding in pasturage, but in many parts entirely destitute of wood, and but scantily supplied with water. The larger rivers, receiving their principal tributaries before they leave the mountain region, generally issue from thence nearly complete in volume; and while they cut the upland into large sections, confer little benefit upon it by their waters.

From the edge of this plateau we look down upon the Kafir lowlands, a district averaging about forty miles in breadth, and generally of a most broken and rugged character. This character is conferred upon it by the secondary rivers; which, rising in the abrupt southern face of the upland above, and flowing in deep and tortuous channels within a few miles of each other, cause an almost constant alternation of hill and dale. The courses of the still smaller streams, which flow into these from either side, partake of the character of their principals; and tend still farther to break up the country into fragmentary portions. Deep woody kloofs, dense thickets, extensive mimosa groves covering hill and valley, and often impervious to a traveller; fearful precipices, and rocky passes, rifted apparently by some terrible convulsion of nature, abound in this almost *untravellable* district. And yet there is a general tameness pervading it *as a whole*. The hills never rise into mountains; the thickets but rarely expand into forests; and there is a uniformity in the ruggedness which renders it as wearisome to the eye, as a journey through it is to the limbs. Exceptions, however, occur. Here and there a stream is to

be found that winds its open course through alternate meadow and woodland, its banks fringed with flowering shrubs in endless variety: while at intervals appear the dark rich foliage, and the majestic figure of the *Umkoba*; and the *Umsintsi*, with its bright green leaves, and clusters of crimson blossoms; seeming like the patrons and protectors of the rest. I know a few pastoral landscapes of this character in Kafirland, that would scarcely allow a Greek to regret Arcadia.

The *rivers* of Kafirland may be divided into two classes. Those that rise in the mountain ranges, and those that have their sources in the steppe already described. Of the former class are the Keiskamma (Ixesi), the Buffalo (Iquonci), the Kei (Inciba), and the Bashee (Umbashe). The first and second of these rise in the westerly range, or Amatoli. They are fine streams of water, but their course is only a short one. The lower portion of that of the Buffalo is remarkably picturesque and beautiful. The most distant sources of the Kei are beyond the boundaries of the Kafir territory. It receives, however, several tributaries from both the eastern and western Kafirland ranges. The Klipplaat (Unwele), the Tunxe, and the Kabusi, all strong and beautiful streams, enter it from the eastern side of the Amatoli and Kat River mountains; and the Tsomo, a stream equal to the Keiskamma, joins it from the western portion of Foo'boo's range. Below the confluence of its numerous branches, the Kei is much the largest of the Kafirland rivers. Its course is extremely rugged and inaccessible, lying among frightful precipices. In many places its channel appears as though rent for it through

immense masses of rock, which rise on each side in natural walls to the height of several hundred feet. The Bashee, and its principal tributary, the Umgwali, have their sources in Fooboo's mountains, where the Umtata likewise takes its rise. These are strong streams, but their course is much shorter than that of the Kei.

Most of these rivers might be navigated to a considerable distance from their mouths, could the obstacle of their "bars" be removed.

The *secondary* rivers are the Beka (Bira), between the Fish River and the Keiskamma; the Chalumna (Tyolomnqa), between the Keiskamma and the Buffalo; the Nxarune,* Gqunube, Kwelera, Kwenxura, and Quku, between the Buffalo and the Kei; the Gcuwa, Qora, and Shixina, between the Kei and the Bashee; and the Inklonyane, Xora, and Umncwasa, between the Bashee and the Umtata. Some of these are only periodical streams, that are often dry, but others are strong and permanent. The tides of the ocean flow for several miles up these secondary streams, giving them the appearance of canals, and keeping them stocked with exhaustless supplies of fine fish.

On the *animal* and *vegetable* productions of Kafirland it will be sufficient for the purposes of the present article to say, that they are similar to those within the colonial

* The Kafir orthography (dropping some of the prefixes), is here adopted; as it would be impossible to convey the sound of these names by attempting to Anglicise them. For the explanation of the power of the letters, a reference to the Kafir Grammar will be requisite.

boundary. There is, however, a very perceptible increase of luxuriance in the vegetation as we proceed toward the tropical regions of the continent. The alluvial lands become richer and more extensive, the supply of water more abundant, and the grass and herbage of a ranker and more succulent character. The grass, especially, attains in some places to an enormous height, sufficient even to hide from view a man on horseback as he rides through it. The pasturage, generally, is only fit for the larger kinds of cattle, excepting towards the northern boundary, where some good sheep walks may be found.

The *population* of the tract of country of which the above sketch has been given, may be estimated at 300,000 souls; to be allotted, however, in very unequal proportions to its two national divisions. The Abatembu, or Tambookie branch, cannot be considered as numbering more than 90,000, while the Amaxosa may be safely calculated at 210,000. Of the various tribes into which the latter are sub-divided, the first in rank is that of the Amagcaleka, (the tribe of Khreli), numbering about 70,000. The second is that of the Amangqika, (Sandili's tribe), which, including the smaller tribes of the Imidange and Amambalu, that are dependent upon it, may also be estimated at 70,000. Third in rank stand the Amandlambe, headed by Umhala, in number about 55,000, including their various branches. The Amagqunukwebi, or Pato's tribe, may be set down at 15,000.

The relative local position occupied by these tribes is as follows :—

The Amagqunukwebi extend along the sea-coast from

the mouth of the Fish River nearly to that of the Buffalo, reaching, between the Fish River and the Keiskamma, to the sources of the Beka, but confined to a much narrower strip of territory, between the Keiskamma and the Buffalo. Above the Beka, and extending across the Keiskamma and Chalumna, comprising all the lower course of the Buffalo, and that of the secondary rivers, as far as the Kwelera, lies the territory of the Amandhlambe. The Amambalu, (Eno's tribe), lies next to the Amandhlambe, extending upwards from the Gwanga, between the Fish and Keiskamma rivers; and beyond these, in the same line of country, are the Imidange, reaching, along the immediate colonial border, to the vicinity of Fort Beaufort. The Amangqika possesses the whole of the Amatoli range of mountains, from the colonial frontier to the banks of the Kei. The territory of the Amagcaleka is the valley of the Kei, including the secondary rivers to the Kwelera westward, and to the Qora eastward, and extending upwards beyond the junction of the Tsomo. The Abatembu formerly occupied the whole of the country between the Bashee and the Umtata; but in consequence of the repeated formidable inroads of the Amampondo and the Amabaca (the tribes of Faku and Ncapai), nearly the whole tribe has migrated to the country watered by the upper branches of the Kei. A few of the inferior clans have been left near the mouth of the Bashee; but nearly the entire territory formerly inhabited by this tribe is abandoned to desolation.

One general remark is applicable to the whole of the above tribes. The limits of their respective territories

GENEALOGICAL TABLE OF THE AMAXOSA CHIEFS, 1846

XOSA											
TSHAWÉ											
NCWANGU											
SIKOMO											
TOGU											
GCONDE											
.....											
TSHIWO											
.....											
PALO											
.....											
GCALEKA											
.....											
<div style="display: flex; justify-content: space-between;"> Khakhabe Langa Umdange Tinde Kwane </div>											
.....											
KAUTA											
.....											
Velelo											
.....											
Uu lau											
.....											
Cebo											
.....											
Dhlambe											
.....											
Nqeno											
.....											
Gwali											
.....											
Mahodi											
.....											
Jomosi											
.....											
Bange											
.....											
Jalamba, Makhula											
.....											
Funo, Mankla											
.....											
Cika											
.....											
Sabeko											
.....											
Kuse											
.....											
Tola											
.....											
Botuman											
.....											
Tshatshu											
.....											
Jan Tshatshu											
.....											
Tshaka											
.....											
Tyakha											
.....											
Cungwa											
.....											
Pato, Kama, Kobi.											

are not closely defined, and hence their "Borderers" are frequently intermingled; which has been the occasion of many feuds, and in some instances has involved whole tribes in war.

In a future article will be attempted a sketch of the internal history, and mutual political relations of the various tribes.

2. TRIBES OF KAFFRARIA.

The history of barbarous tribes, possessing no records of the past, nor any mode of perpetuating the knowledge of events except tradition, must of course be very vague and uncertain. It is almost needless to say, that such is the case with the various tribes of Kaffraria. Their authentic history extends but little beyond the memory of the old men of the present generation. There is reason, from the affinity of language, and the similarity of national customs, to believe that the Kafirs, Fingoes, and Bechuanas are the offshoots of some common stock; but the stock itself can be little more than matter of conjecture, until the interior of Eastern Africa shall have been more fully explored, and ethnographical researches more extensively prosecuted in relation to this region. The variations in dialect amongst the tribes above mentioned, appear generally to have followed the rule of relative geographical situation; the chain of mountains, which separates the various tribes of Bechuanas from those of Kaffraria, marking the respective boundaries of the two great divisions of the language. Each of these comprises several varieties of dialect, which appear to favour the theory that the languages

have diverged from their original point of separation in about the same degree that the tribes themselves have done. Taking the dialect spoken by the Kafir border tribes as the starting point, and proceeding eastwards through the Abatembu and Amampondo till we reach those spoken by the Zulus and Fingoes, we find a gradual approximation to some of the dialects of the Basuto and Bechuana tribes. Nor is it perhaps an extravagant supposition, that the languages may be substantially blended amongst the tribes yet to be discovered.

The common origin of the Kaffrarian tribes is much less a matter of conjecture. Many of the tribal distinctions obtaining amongst them are of very recent date; and have arisen from a peculiarity in the "law of succession" to the chieftainship. The principal divisions of Amaxosa, Abatembu, and Amampondo, are of earlier formation, although probably arising from the same cause.

A genealogical list of the principal chiefs of Kaffraria has been constructed, which extends through a period embracing sixteen generations; and marks the successive separation of the tribes from the original stock. The order of succession among the more remote generations is, however, very uncertain; although the names there given are generally familiar in the traditional remembrances of the various tribes.

The accompanying table, comprises *twelve* generations beginning with the chief from whom the Amaxosa Kafirs profess to derive their national designation. Of the ramifications of the parent stock from Xosa to Gconde, nothing is known, and it would seem that the remembrance

of the *direct* line has been preserved, chiefly through the perpetuation of the national name, and a desire on the part of the *Antiquarians* of Kafirland to be able to trace it to its source. None of the tribes at present recognised as distinct, date their origin earlier than the time of Gconde. Accordingly, from this epoch the order of succession to the various branches of the chieftainship is generally known, and the relative rank and period of formation of the separate tribes may be pretty clearly ascertained. Rejecting the names of such chiefs as are not considered leading men in the tribes at present existing, it is believed that this genealogical table embraces, with general correctness, all the principal branches of the ruling family.

An explanation of the Kafir law of succession will be necessary to a clear comprehension of the above table, and to throw light on the tribal distinctions existing amongst the Kafir nation. It will be inferred on a reference to the table itself, that the chiefs of all the tribes are of one family; which (with one exception to be hereafter noticed), is really the case. The process by which the separate tribes have been formed is the following:

At some specified period, the chief of a tribe, who, it is assumed, has a plurality of wives, assembles his relatives, with his principal officers and councillors, to decide as to the investment of two of his wives with the respective dignities of "the great one" (*omkulu*), and "the one of the right hand" (*owasekunene*). These two wives rank superior to all the rest. The eldest son of the "great" wife is presumptive heir to his father's dignity, and succeeds him in his general government. The "right hand" wife,

however, lays the foundation of a new "house," as her eldest son is constituted the head of a certain allotted portion of the tribe; and assumes, on the death of his father, the separate jurisdiction of that portion. He thus becomes the originator of a new tribe, acknowledging precedency of rank on the part of his brother, "the great," but independent of him, except in matters involving the general relations of the tribes at large. The sons of the inferior wives possess no distinct authority, excepting among such retainers as their personal influence may gather around them; unless, indeed, the "king" be a "child," in which case one of them is invested with a kind of regency until the period of minority has expired. They are, however, attached to the *courts* of their "great" brothers, enjoying their share of the exclusive privileges of the "blood royal," and constituting the aristocracy of the nation. As their immunities extend to all their descendants through successive generations, this class now forms a considerable portion of the population. The subdividing system above explained has been in operation amongst the Kafir tribes from the earliest known period of their political existence, and a reference to the preceding table will exhibit the effects of that operation in the formation of distinct tribes. An additional element of subdivision was introduced by the chief Gaika (Ngqika), who was an innovator, in several respects, upon the customs of his forefathers. He originated the custom of investing *three* of the chief's sons with distinct authority, instead of *two*, as had previously been the case. The third son thus invested was made the representative of his grand-

father, and the families of his grandfather's councillors were attached to him, as standing in the place of their own deceased chief. As these families were naturally among the most influential of the tribe, the young chief, who was constituted their head, assumed at once a high relative position amongst his brethren. The introduction of this new custom has greatly accelerated the geometrical ratio of subdivision into separate tribes, and its effect, if undisturbed, would be to break the nation up into fragmentary clans in the course of a very few generations. The only existing check to its influence is that its operation is not uniform. Some of the branches *wither*. The unpopularity of the head of a particular "house" will gradually lessen the numbers of his adherents, and reduce his tribe to insignificance, while it increases the power of others. The relative inferiority of the tribes in point of rank increases in proportion to the distance of the period of their separation from the original stock. The people share in a sense of this inferiority, and as they have not the privileges of "blood" to compensate for it, they relieve their feeling of humiliation by joining the more modern and influential "houses," and leaving the representatives of their ancient chiefs "alone in their glory" of aristocratic descent and immunity. The predominating influence of the principal divisions of the ruling family overpowers that of the inferior branches; and the moral gravitation following the analogy of the physical, the greatest body exerts the most powerful attraction. Despite of this, however, the number of distinct tribes is rapidly increasing, and their various relations are becoming increasingly com-

plicated and embarrassing. This is especially the case since the institution of the *Owasexibeni* (as the representative of the grandfather is called); for the institution being a modern one, the relative rank of this third participator in hereditary dignity is not yet fully adjusted; and the disputes for priority serve to show that the desire of preeminence is a vice of human nature not confined to civilized nations.

The original rule for regulating the gradations of rank amongst the tribes is to be found in the custom of the "right hand." This custom has existed from time immemorial; nor is the cause of its origin now known. By its operation, each successive generation adds a step in relative inferiority to the right hand tribes of previous formation; as that of the existing generation always takes precedence of those of earlier date, on the ground of its standing in closer relationship to the existing head of the nation. Bearing this rule in his mind, the reader is now requested to turn to the preceding table. The first column contains the names of the paramount chiefs from Xosa down to Khili. The latter is the present nominal head of the Amaxosa. Over the Abatembu he claims no authority; as that division of the Kafir nation is now considered a distinct people. Khili, being but a young man, has as yet formed no "right hand house." The chief, therefore, who is next in legitimate rank to himself is his brother, Umtikhakha,* who is the head of that formed by his

* This chief is to be distinguished from the chief of the same name who is the head of the Abatembu. The latter is related to Khili only by marriage, his sister being Khili's first wife.

father Hintsá. The "right hand" of his grandfather Kauta ranks next. This is Bukhu. Then follows Gcaleka's "right hand," Velelo. And then *fourth* in the scale of inferiority from the paramount chief, follows the house of Khakhabe, the "right hand" of Palo. This branch of the "royal" tree, however, flourished in a very extraordinary degree. The causes assigned are, the popular character of Khakhabe; the extreme cruelty of the mother of Gcaleka; and the adoption, by Gcaleka himself, of the profession of wizard doctor, although great chief of the nation. So greatly and so rapidly did the power of Khakhabe increase, that he at last ventured to wage a war with his "Lord paramount," and laid the foundation of a tribe, which now, even when the Amandhlabé, its offshoot, are deducted, is equal in numbers, and far superior in power, to the Amagcaleka themselves. For their *numbers* the Amakhakhabe (as the tribe of Sandili is still designated beyond the Kei) may thank the character and fortunes of their founder; but their *power* may be traced to their close proximity to the colonial frontier. The maxim that "might is right" is as well understood by barbarous chiefs as by civilized monarchs; and accordingly Sandili, the representative, in the "great" line, of his great-grandfather, Khakhabe, acknowledges no superior but Khili, and pays *him* merely the formal respect that the ceremonies of ancient custom require.

Practically, therefore, Sandili is the head of what might justly be termed the third division of the Kafir nation; the Amakhakhabe and their subordinates standing in a similar relation to the Amagcaleka to that which the latter

bear to the Abatembu, and neither party interfering, in ordinary cases, with the political affairs of the other.

Postponing the consideration of the subdivision of the Amakhakhabe, we pass on to the line of Langa, the originator of what is commonly known as "Eno's tribe." Langa was a brother of Khakhabe, and a "mighty hunter." His courage and skill in hunting the elephant, rhinoceros, and other large animals, the chase of which required dexterity and daring, gathered around this Nimrod the kindred spirits of his day; and although he was neither a "great" son, nor a "right hand," his personal qualities attracted followers that in two generations have grown into the present Amambalu; a tribe which, although of little importance in point of numbers, is considered one of the most warlike tribes on the frontier.

Receding another generation, we reach the "right hand" of Tshiwo. This was Gwali. A lasting stigma has rested on the name of this chief, which may account for the present insignificance of the tribe formed by him. Tradition relates that Palo, the "great" son of Tshiwo, was not born until some months after his father's death. Gwali, already a young man, was desirous of increasing his own power; and laid a plot for murdering the child at its birth. The plot was, however, discovered. The *Inkosikazi* took refuge with her deceased husband's brother, who had her secreted until the child was born, and ascertained to be a son. The old councillors of the tribe, well knowing the advantages of a long minority to themselves, rallied around the infant chief; and the ambitious designs of Gwali were defeated. The latter fell

into disrepute, and his tribe appears to have felt the consequences of his disgrace, as it has been quite eclipsed in respect both to numbers, and *barbarian* fame, by others that ought to have been its inferiors.

The formation of the Imidange tribe dates a generation still farther back. Umdange, its founder, was the "right hand" of Gconde, and was the chief who afforded an asylum to the widow of his brother Tshiwo, on the occasion referred to above. Owing, it is supposed, to some death, or failure of issue among the earlier generations, the "succession" as respects the chiefs of this tribe has been involved in more confusion and uncertainty than that of any other on the frontier. The result is, that for a long time past the tribe has been virtually without a legitimate head. The chief (Nciniswa) whose pretensions are considered to be best founded, has, apparently from sheer imbecility, surrendered his right, and is attached to the *umzi wakwomkulu** of Sandili as little more than an Umpakati. The inferior chiefs have thus come into note; and Botumane, by birth one of the lowest of them, has, by the force of circumstances, been thrust into a position which has led the colonists to regard him as the head of the tribe.

The Imidange have also been separated widely in the local position of their various clans: and in the different, and sometimes rival, interests they have espoused. Botumane has adhered to the Gaika tribe; Kuse to that of Dhlambe; Tola appears to have passed over from the one

* Literally, "residence of the great one."

to the other. Smaller fragments, under their petty leaders, have settled in separate localities; and it is many years since one chief was acknowledged by the whole tribe. It is not extraordinary that, under such circumstances, the Imidange should have acquired the unenviable notoriety of being the most lawless and predatory of all the tribes of Kafirland.

The position of the founder of the Amantinde is a matter of dispute. The antiquaries of Kafirland are at variance on the question. By some it is said that Tinde was a son of Gconde, by one of his inferior wives. Others assert that he was only adopted by his reputed mother, to avoid the disgrace of furnishing no support to the *umzi wakwomkulu*; and in the disputes on the subject of hereditary honours, which sometimes occupy the leisure hours of Kafirs as well as those of their "betters," the Amantinde are challenged to name the "house" from which they are descended. These things are, of course, treated as slanders by the partizans on the opposite side. Whatever be the truth, however, on the *hereditary* question, the personal character of Tinde enabled him to found a tribe, which, though small, has remained distinct to the present time.

Before explaining the origin of the Amagqunukwebi, whose chiefs occupy a different position from that of all the others, it may be well to notice the subdivision of the Amakhakhabe into the distinct tribes of which they now consist. This will complete the view of those tribes whose chiefs belong to one family.

Khakhabe, who appears to have been of a restless,

warlike spirit, was killed in battle with the Abatembu. His "great" son was Umlau; his "right hand" was Cebo. Umlau died young, leaving his "great" son, Ngqika, and his "right hand," Ntimbo, both children. Dhlambe, who was a brother of Umlau, by the same mother, and who would have become the head of the tribe, had Umlau died without issue, was invested with the guardianship of his young nephews, and the government of the tribe during their minority. His "regency" was popular; and when Ngqika assumed the government, he found a very numerous party ready to support his uncle's pretensions to a continuance in independent authority. These were farther favoured by the death of Cebo, who left no son to succeed him as head of the "right hand" tribe; and whose daughters were excluded by the Kafir "salic law" from the succession. The *amapakati* of that tribe requested to be supplied with a representative of their deceased chief from amongst the sons of Dhlambe. Dushane was appointed, and proved the most able chief in all Kafirland. Resentment for the abandonment of his mother, detached Dushane from his father's interests for some years. The old councillors of Dhlambe, however, at length effected a reconciliation, being jealous of the influence which the rising fame of a son of their own chief was giving to the house of Ngqika, a house they were disposed, from the peculiar position of Dhlambe, to consider rather as a rival than as a superior. Accordingly Dushane, on rejoining his father, brought him such an accession of strength, as enabled him, with his other auxiliaries, to overthrow Ngqika in a pitched battle on the plains of the

Debe, which, from the slaughter that took place, has formed an epoch in the annals of Kafirland.

The above observations will serve to explain the origin of the Amandhlanbe and the Imidushane as distinct tribes. We return now to the sons of Umlau, Ngqika and Ntimbo. The latter, his father's "right hand," died quite a youth, leaving no successor. His tribe remained without a distinct head until Ngqika gave it one in the person of a son of his own. Hanta, the son who was appointed to this chieftainship, is now commander of Sandili's "household troops," it being he who heads, by right of office, the *impi yakwomkulu*, or regiment of the "great place."

It has been already remarked that Ngqika originated the custom of the *owasexibeni*.* The example of the head of the house of Kkakhabe, was sure to be influential amongst the other tribes. Every chief's family accordingly has now its "first three," in the order of "great son," "right hand," and "representative of the ancients." For the family of Ngqika, these are Sandili, Maqoma, and Tyali.† For the family of Dhlambe, Umhala, Umqai, and Umxamli.‡ For that of Dushane, who died in the prime of his years, Siwane, Fundisi, and Siyolo. For that of Nqeno, Stokwe, Ngcwoleshe, and Sonto.

The position of Umhala is somewhat different from that of the rest of the principal chiefs. The son of Dhlambe, who should have been his father's successor, died before him; and Dhlambe, on a reverse of fortune,

* See page 11. † Tyali is dead, and his son, Fin, represents him ‡ Umxamli was killed at the battle of the Gwanga.

which placed him for awhile in the power of his nephew Ngqika, engaged not to appoint another in his room so long as he was alive. Umhala's mother was but a concubine of Dhlambe, and had been allotted to the house of his principal wife as an attendant upon her. On the death of Dhlambe, Umhala was found to be the only male descendant of his father connected with that house. This circumstance, together with his own popular character, gave him a strong party amongst the *amapakati*. The son of Dhlambe (Jan) who was in charge of the "residence of the great one," at the time of his father's death, was destitute of the energy of character requisite to maintain his position against his more enterprising brother. A fit of illness supplied Umhala with a convenient charge of witchcraft against him. He fled, leaving his cattle behind; and thus at once relieved his rival of his presence, and enriched his treasury. Umhala, adopted by the old councillors, was acknowledged by the tribe generally; and Tyali and Maqoma, the sons of Ngqika, confirmed his authority by the formal admission of his claims to be recognized as the successor of his father.

There is yet one tribe, the origin of which remains to be noticed, and that is the Amagqunukwebi, the tribe of Pato. In point of numbers, this tribe is superior to several of those already spoken of. Its chiefs are, however, deemed inferior to the rest, as not belonging to the same family,—as being, indeed, the descendants of a man who was raised from amongst the common people, and invested with the rank and authority of a chief by Tshiwo.

There is something of romance in the history of this

man, as it has been preserved in the traditions of the tribe which he founded. It is probable that the facts of the case have been somewhat *adorned* in the course of transmission: the following, however, is the result of a comparison of accounts.

Kwane was a councillor of Tshiwo, and a man very popular with the tribe at large. He was also a great favourite with his chief, and was employed by him on most matters of importance. There was another councillor, of great influence with the chief, but a man of a very different character. Amongst the "matters of state" of which these two *ministers* had the direction, was the execution of frequent sentences against the victims of accusations of witchcraft. These sentences, involving not merely the confiscation of the cattle, but also the massacre of the parties involved, were carried relentlessly into effect whenever the second of the councillors above mentioned had the management of the proceedings. Kwane, on the contrary, systematically spared life; and, leaving them a few head of cattle to subsist upon, connived at the escape of the accused and their families to the mountain region toward the Orange River. His own great influence, and the popular character of the proceeding, enabled him to continue it for several years. At length a quarrel with the other councillor threatened him with the consequences of exposure, on which he adopted the bold resolution of assembling his mountaineers (now an imposing looking band), appearing at their head at the *Umzi wakwomkulu*, avowing what he had done, and putting it to the old chief whether he had not better served his

interests by preserving the men alive, than he would have done by putting them to death. He did so; and the measure was perfectly successful. Tshiwo, instead of punishing Kwane, constituted the people he had saved a distinct tribe, and invested him with the chieftainship of it. His insignia of rank consisted of a milksack, a selection from the chief's milking cows to replenish it with, and an allotment of blue crane's wings for war plumes for his bravest warriors.* These, bestowed by the hand of Tshiwo, served instead of the ribbands, stars, and garters, as eagerly sought for, though perhaps not more highly prized, in a higher state of society.

The tribe of Kwane is the present tribe of Pato. Its fortunes have been various; but at the commencement of the present war, it far exceeded in numbers several of the other tribes, whose chiefs had long looked down upon it with the contempt which the imaginary superiority of blood inspires.

The successive formation of the Kafir tribes affords an actual specimen of the process by which the Pastoral nations of the world are formed. It exhibits, on a small scale, an exemplification of the periodical *swarming* by which, from the ancient *hives* of nations, the earth was overspread. In this point of view it will form an interesting illustration of some branches of the study of *Man*, to those who can free their minds from the influence of temporary circumstances. A sketch of the history of

* None but chiefs of rank are allowed to possess these; nor are any permitted to wear them but men of tried bravery, upon whom the chief bestows them as marks of his favour.

the tribes, and a view of the character and operation of the system of government obtaining amongst them, are the proposed subjects of some future articles.

3. THE GOVERNMENT AND ITS PRACTICAL OPERATION.

It is common to talk of the *despotism* of Kafir chiefs. If by the use of this term it is intended to be implied that the will of the chief is the sole law of the nation, it is incorrect. The government amongst the tribes on this side of the Bashee is not a despotism. Such a term may be applicable to the rule of Mosheshe, the Basutu chief, who boasted that when he spoke the mountains moved; or to the tyranny of Tshaka, the head of the Amazulu, who would order a number of his people unarmed to catch a hippopotamus alive, *and be obeyed*, too, so far at least as the attempt was concerned, although it involved the certain and wanton sacrifice of many lives. The government of the Amaxosa and Abatembu tribes is a sort of mixture of Patriarchism and Feudalism. Age gives great weight and influence to the will of a chief, and most chiefs of rank can generally find means to accomplish their wishes: but if these wishes involve the death or spoliation of any of their subjects, they are usually obliged to resort to some form of law to give colour to their procedure. In the case of a Kafir chief, the principal checks to the despotic inclinations which the possession of power always induces are, first, the division of the tribes, and secondly, the existence of a very influential council.

The operation of succession to the chieftainship, which was explained in the "Christian Watchman" for September, has led to the formation of various tribes nearly equal in power to each other. It is very common for persons who have exposed themselves to the ire of their own chiefs, to take refuge amongst some tribe adjoining; and on doing so, they become so far safe as to be within the protection of a custom which forbids their arbitrary seizure by their own chief, and places them on the same footing (until investigation take place) as the subjects of the chief amongst whose people they have taken refuge. Any attempt to interfere with them by violence, when once they are within the territory of another tribe, would be resented by an instant rising of the clans nearest them in their defence, and that without any enquiry as to the merits of the case. The desire of each chief to increase the number of his retainers, often induces him to throw obstacles in the way of any investigation that would be likely to lead to the surrender of any man who had placed himself under his authority and protection from another tribe. It is therefore very common for all farther prosecution of a chief's quarrel with his delinquent subject to be abandoned, on the culprit once gaining the "city of refuge" which another tribe affords him. The practical limitation of the power of the chiefs, arising from the above circumstances, is easily perceived.

The existence of a council, in which all matters of importance are discussed at length, is another check upon the power of the chiefs. This council, the members of which are called *Amapakati* (literally "Middle ones"), is

composed of commoners, who, by their courage in war, or their skill in debate on public questions, or in unravelling intricate law suits, have acquired great popular influence, and are thus qualified to sustain or control the power of the chiefs. They generally reside in different parts of the country, and have a sort of civil jurisdiction over their respective neighbourhoods. A few of them are mostly to be found at the chief's residence, but on the occurrence of any matter of public importance, the arrival of a message of consequence from the chief of another tribe, or the proposition of any particular measure on the part of their own chief, they are all summoned to the *unzi wakwomkulu*, and no decision is come to till the matter has been thoroughly discussed in all its bearings. As every one of these Amapakati has his own partizans and favourites in the tribe, so the shield of the *patron* is often interposed between his *client* and his chief.

The operation of the influence of the Amapakati in modifying the power of the chiefs is remarkable, as it has its periodical revolutions, its waxings and wanings. Some idea of the nature of these alterations may be acquired by tracing the operation of a custom, which exists amongst the principal chiefs, of making one of the youngest of their wives the "great wife." The ground of this custom will be best understood from a view of the usual career of a chief in relation to his matrimonial alliances.

The first wife of a Kafir chief, "the wife of his youth," is not unfrequently taken from amongst the families of his own councillors. He is as yet "unknown to fame;" his wealth is not so considerable as it *is* to be. After

awhile his alliance becomes more worthy the attention of those of other tribes, whose daughters demand a higher dowry than was required by the humbler parents of his first wife. Another and another are sent to him; for it must be borne in mind that a Kafir chief does not choose his own wives. He is surprised from time to time by the arrival of a bridal party, bringing with them as his offered bride some chief's daughter whom he has never seen before. The danger of refusing her is according to the rank and power of the family to which she belongs, for to refuse such an alliance is to offer a public insult to the whole tribe. The usual order of things, then, is, that as a chief grows older and richer, wives of higher rank are sent to him, and the reasons which operate against their refusal operate also against their having an inferior rank allotted to them in the successional distribution. The mother of him who is to be the "great son" may thus be the last wife the chief has taken, which is in fact sometimes the case.

The result of this process is, that a chief, dying in his old age, leaves a minor, often a mere child, to succeed him. What then is the position of the young chief? He finds himself surrounded by a number of greyheaded veteran associates of his father, who are strong in the possession of long continued popular influence, and insolent from their consciousness of possessing it. If he will yield himself to their sway, his course is smoothened for him; if he manifests much self-will, they do not scruple to remind him that they were the councillors and companions of his father before he was born; that his mother owed

her appointment, and consequently her son his rank, to their advice and influence; and they will sometimes hint that they can *unmake* as well as make chiefs: and threaten him with the elevation of a brother as a rival.

The rule of a young chief is thus in reality the rule of the old councillors of the tribe. The relative position of the two parties, however, gradually changes. While the young chief is advancing towards the vigour and resolution of manhood, the course of nature is carrying the most venerable of his haughty mentors to the grave, and thus removing some of the most formidable obstacles to his own exercise of power. On the other hand, his own party, formed of the young and active spirits of the tribe, is growing in strength. By degrees he ventures on bolder measures. One after another of the old *Amapakati* falls a victim to an accusation of witchcraft, the Kafir state engine for the removal of the obnoxious, and by the time the young chief has grown old in his turn, he has surrounded himself with another set of councillors, who, enriched by the spoils of their predecessors, and inheritors of their influence, are prepared to do for the successor of their master what their own forerunners and victims did for himself, to be in their turn the victims of a system perpetuated from generation to generation.

Such in one point of view is the practical working of the Kafir system of government, as regards the tribes individually considered. That under such a system there should be more than enough of tyranny, might be inferred from the natural rapacity of power. But it is not the tyranny of *one*, whose will no other dares to thwart. It

is divided amongst many, and is often more or less neutralized by the rival popular interests of the tyrannizers themselves.

A view of the *constitutional* sources of a Kafir chief's revenue, and its expenditure, will throw a little more light on this subject.

As cattle constitute the sole wealth of the people, so they are their only medium of such transactions as involve exchange, payment, or reward. The retainers of a chief serve him for cattle; nor is it expected that he could maintain his influence, or indeed secure any number of followers, if unable to provide them with what at once constitutes their money, food, and clothing. He requires, then, a constant fund from which to satisfy his dependents; and the amount of the fund required may be judged of from the character of the demand made upon him. His retinue, court, or whatever it is to be called, consists of men from all parts of the tribe, the young, the clever, and the brave, who come to *busa* (do court service), for a time, that they may obtain cattle to furnish them with the means of procuring wives, arms, or other objects of desire. On obtaining these they return to their homes and give place to others. Thus the immediate retinue of the chief is continually changing, and constitutes a permanent drain upon his resources. To meet this he has—

1. The inherited cattle of his father. Not that he inherits the whole of his father's cattle. A prospective division of these is made at the time of the successional division of the chieftainship. The portion allotted to the "great" house, the cattle of the *Umzi wakwomkulu*,

constitute the inheritance of the "great" son. This previous division of his father's property thus obliges every chief to begin his "reign" with less wealth than his father possessed.

2. The *Amawakhe*, or inauguration offerings. These consist of cattle, made on the day the chief completes his novitiate after circumcision. It having been previously announced to all the chiefs of rank in the nation, a grand meeting of the principal men of the tribe takes place on the day appointed: the young chief is presented to the councillors of his father, who lecture him, in terms not the most courteous or respectful, on his future conduct; the offerings and presents of the chiefs of other tribes are received, and constitute a formal recognition of their young compeer, and an acknowledgment of his rank, which accordingly dates from that ceremony.

3. The *Ukuqola*. This is a sort of occasional tribute or "benevolence," as our old English Sovereigns would term it, and consists of cattle furnished by the rich *commoners* of the chief's own tribe, to assist him in some special emergency.

4. Fines and confiscations. The universal punishment for crime is fining: cases of supposed witchcraft excepted, which usually involve the torture and cruel death of the party accused, and the seizure of all he possesses. In levying fines, however, a distinction is made between cases involving personal injury, and those which affect property merely. *Persons* are considered the property of the chief. Fines imposed for acts of violence committed on the person—cases of "blood"—are accordingly claimed

by him, and the person or family, whose blood has been shed, receives no part of it. In what may be termed the *civil* cases, *i.e.*, those infringing on the rights of individual property, the party aggrieved claims the fine levied; but is nevertheless expected to fee the chief and his officials pretty liberally out of it; supposing the case to have been brought before him for legal investigation, which however is, generally speaking, only when the "lower courts" have been unable to settle it.

The above may be termed the *regular* sources of a Kafir chief's revenue. Presents extorted by personal importunity during *visits of friendship*, and the results of predatory excursions, belong to the "unfixed contingencies."

From the above remarks it will be seen that a Kafir chief is in some respects dependent upon the goodwill of his people, and that it is necessary he should to a certain extent cultivate the arts of popularity. Accordingly, the cases of glaring oppression are only occasional, and occur where the hope of sharing in the spoil leads the majority of the *Amapakati* to support their chief in victimizing some unfortunate individual whose wealth constitutes his crime.

The foregoing observations chiefly respect the administration of the tribes separately considered. There is, however, a sort of general government, centring in the chief and council of the tribe first in hereditary rank, which extends to all the other tribes. It is, indeed, of rather a loose character, and interferes with the internal affairs of individual tribes only in cases of appeal, or

when, as sometimes occurs, the chief of the tribe himself refers the case to the "great chief" for decision. Its general sphere of exercise is in such matters as affect the relations of the tribes with each other. In any case of this nature which may arise, the decision is supposed to rest with the *ukumkani*, as the paramount chief is designated. It is accordingly expected that the parties concerned will send their respective representations on the merits of the case to the council of the *ukumkani*, to be tried there. The sickness or death of any secondary or subordinate chief: disputes with regard to "the succession" in any of the secondary tribes; insults or injuries deemed to afford cause for an attack by one tribe on another; are among the cases of which the general government takes cognizance: and any subordinate tribe which should neglect to send a formal report of such matters to the "great place," and abide by the decision there pronounced, would be considered as having contemned the authority of the supreme government, and would be amenable accordingly.

Such is, in brief outline, the system of government which obtains amongst the tribes of the Amaxosa. It is, like other governments, the offspring of circumstances to a considerable extent: and although defective in many important respects, forms one amongst a variety of facts which give a practical contradiction to the assertion that the Kafirs belong to the lowest grade of the earth's population in point of intellectual development.* That it is

* See Prichard's *Physical History of Man*.

very desirable it should be superseded by something better, may, however, be readily granted, and will perhaps appear all the more fully if we notice a few of the defects which it presents.

1. With the exception of the principle of hereditary succession, it recognizes no fixed constitution or system of legislation. The appointment of the primary chieftainship is frequently the subject of caprice or intrigue, as might be expected where a plurality of wives obtains, and rival family interests present their clashing claims. There is at present a case in point, in the circumstances of the Imidushane, one of the principal tribes on the frontier: where, a fit of personal disgust having led Dushane to the informal supercession of his "great wife" by another, two rival candidates for *ubukulu* (greatness) have arisen in the two sons whose mothers have thus at different times been claimants of the rank so much coveted. Nor was the disputed succession settled when the present war broke out.

And then with regard to the principles of administration:—Some regard is paid to the decision of such chiefs of former days as were of note for sagacity and wisdom; and appeals are often made to them in the council debates, as furnishing general grounds upon which to decide existing cases. These are, however, forgotten in the course of a generation or two; and thus cease to influence after the lapse of a few years. Besides which, a chief of the present generation may equal or surpass his forefathers in wisdom, and thus his decisions, although differing in many respects from theirs, may come to be the oracles of his children in preference to those of an earlier date. The government

is thus liable in this respect to incessant fluctuation, being destitute of the solid basis for regular action, which fixed principles alone can afford.

2. It confounds the legislative, judicial, and executive departments.—The laws originate in the decisions of the chief and his council: but the same council forms the great law-court of the tribe, in which the chief sits as judge, and afterwards enforces the execution of his own sentences, or perhaps inflicts the awarded punishment with his own hand. It is needless to enlarge on the practical effect of this. It is universally admitted to be dangerous to the claims of justice, when the same party that is to administer the law is entrusted to make it.

3. It affords no guarantee for the uniform administration of justice.—There is no “*letter of the law*” to appeal to, and thus there is much scope for the exercise of favouritism; of which, doubtless, from the powerful influence of the principal councillors, very much exists. The facility of escape to another tribe, already noticed, is farther obstructive to the impartial administration of justice, even in cases where the law is clear, and thus greatly checks the repression of crime by the impunity which it offers to delinquents in affording them a place of refuge.

The above considerations may serve to shew that for the true ends of government, the conservation of order, and the promotion of social comfort and happiness, the system existing amongst the Kafir tribes is destitute of energy and efficiency.

On the other hand, lawless and predatory habits are

greatly fostered by the peculiar position and privileges of the *untitled* members of the chiefs' families. In the numberless ramifications of these which exist, there is provided an exhaustless supply of leaders for any enterprise which promises booty, and there are always numbers of young men of a restless, roving disposition ready for any career of adventure that holds out the prospect of obtaining cattle. Disputes and quarrels furnish frequent excuses for petty expeditions of this kind, in which cattle are swept off as a speedy mode of settling what the regular process of law might take some time to decide. These give occasion for others of a similar character by way of reprisal; and as opportunities for displaying courage and address are afforded by such forays, and as there is little to lose in them for those who have nothing, and at least the *prospect* of gain to stimulate them, in addition to the pride of distinction, such enterprises are very popular, although they often lead to feuds of a serious character, and of course oppose a formidable obstacle to social advancement.

4. LAWS AND LEGAL PROCESSES.

It would be scarcely correct to speak of a *system* of Kafir law. The laws of the Kafir tribes are but a collection of *precedents*, consisting of the decisions of the chiefs and councils of bygone days, and embodied in the recollections, personal or traditional, of the people of the existing generation. That these decisions, in the first instance, were founded upon some general notion of right, is not unlikely. It is not, however, to the abstract merits of a case that the appeal is now ordinarily made, in legal discussions, but to

what has been customary in past times. The decisions of deceased chiefs of note are the guide for the living in similar circumstances. The justice of those decisions is usually assumed as a matter of course, no one presuming to suppose that an *Amaxosa chief*, any more than an English *king*, can do "wrong." The changing condition of the tribes, arising from their growing intercourse with a civilised people is, however, gradually introducing more complicated questions amongst them; and thus the decisions of the Ancients are becoming less applicable to the circumstances of the Moderns than formerly. The result is, that more difficulty is felt in deciding, and the "glorious uncertainty" of the law of more enlightened lands is finding its way into the "courts" of Kaffraria.

In presenting a brief sketch of "Kafir Law," it may be observed in the first place, that a distinction obtains in some respects similar to that which exists amongst us between Criminal and Civil law. In one class of cases the *chief* is always considered the aggrieved party, and the action is always entered on his behalf. In the other, the *people* are the only parties concerned, the chief having to do with the matter in his capacity of judge merely. The principle which regulates the classification of cases is, however, one that makes a very different division of the civil from the criminal to that which obtains in civilized jurisprudence. This principle is, that a man's goods are his own property, but his person is the property of his chief. Thus, if his possessions be invaded, he claims redress for himself; but if his person be assaulted, and bodily injury be the result, it becomes *his* owner's concern. In the latter case, however

heavily the offender may be fined, the actual sufferer derives no benefit. "No man can eat his own blood," is the maxim which regulates this procedure ; and as the fines levied for personal injuries are considered the "price of blood," whoever should receive any part of such fine in a case where he had himself been the sufferer, would be regarded as violating this maxim.

The Kafir "criminal code" then, may be viewed as comprising whatever cases can be arranged under the general heads of treason, murder, assault, and witchcraft. The "civil" all that have reference to property ; including as such a man's wife as the principal article, and his character as the next : and proceeding downwards through his various kinds of live-stock to his houses, granaries, and cornfields. A "good name" is deemed of such worth (possibly on the principle that the scarcity or rarity of an article enhances its value) that whoever attempts to "filch" it, runs the risk of a serious prosecution.

The penal sanctions of Kafir law resolve themselves into the general system of pecuniary fines, varying according to circumstances from a single head of cattle to the entire confiscation of property. The exceptions to this are, cases of assault on the persons of wives of the chiefs, and what are deemed aggravated cases of witchcraft. These usually involve the punishment of death very summarily inflicted. This punishment, however, seldom follows even murder, when committed without the supposed aid of supernatural powers ; and as banishment, imprisonment, and corporal punishment are all unknown in Kafir jurisprudence, the *property* of the people constitutes the great fund out of which the debts of justice are paid.

The principle upon which fines are levied is not very rigidly defined. Family and personal influence, and favouritism, have much to do with regulating the amount where the decision is given by the chiefs. In cases of cattle stealing, the law allows a fine of ten head, though but one may have been stolen, provided the animal has been slaughtered, or cannot be restored. The principle of ten for one is not, however, so applied as to involve the maintenance of the rule whatever be the number stolen. Though ten are levied when one has been stolen, it is not admitted to follow that a hundred may be demanded when *ten* have been stolen. The circumstances of the case are taken into consideration, and the decision varies accordingly. And then "by a fiction of law," iron pots, axes, and assagais are allowed to represent cattle: so that the man who pays for his theft five or six head of cattle, and a goat or two, making up the number of ten by the addition of some of the above articles, is frequently released from all farther legal claim, so far as that case is concerned.

Should a delinquent be too poor to pay the fine himself, his father, or nearest living relatives are held responsible, and many a grey-headed parent has the disagreeable task of doing for his scapegrace of a son what his own father in his younger days had to do for him. Should neither the offender nor his relatives be able to satisfy the *present* claims of justice, the law is so accommodating as to give credit; and five, ten, or *twenty* years afterwards, if his altered circumstances render it worth while to re-open the case, it is found carefully registered in the living records kept in the heads of old councillors.

When it is ascertained that stolen property has been shared by the thief with others, the fine imposed by law is levied upon the receivers and the thief in common, in proportion to the amount of plunder received by each participator.

In cases ranked as "Criminal," that is, where the chief himself is the prosecutor, the penalty very often consists in being "eaten," to use the rather expressive figure by which entire confiscation of property is implied. In some cases the nature of the crime fully warrants this, and would justify even more. In others, a looker-on might feel it a difficult matter to find *good* reasons for such procedure; the chiefs, however, easily find reasons sufficient to satisfy *themselves*.

The course of law in Kafirland proceeds on a principle the very reverse of that which regulates English administration of justice. We assume the accused party innocent till his guilt is proved. In Kafirland he is held guilty till he can demonstrate his innocence. With us, *witnesses* must supply the grounds upon which the case is to be decided. Amongst the Kafirs, the accused party *himself* is subjected to a most rigorous cross-examination, varied and repeated at the pleasure of his examiners, and every advantage is taken of his mistakes or self-contradictions.

The conduct of a Kafir law-suit through its various stages is an amusing scene to any one who understands the language, and who marks the proceedings with a view to elicit mental character.

When a man has ascertained that he has sufficient grounds to enter an action against another, his first step is to proceed, with a party of his friends or adherents, armed, to

the residence of the person against whom his action lies. On their arrival, they sit down together in some conspicuous position, and await quietly the result of their presence. As a law party is readily known by the aspect and deportment of its constituents, its appearance at any kraal is the signal for mustering all the adult male residents that are forthcoming. These accordingly assemble, and also sit down together, within conversing distance of their generally unwelcome visitors. The two parties perhaps survey each other in silence for some time "Tell us the news!" at length exclaims one of the adherents of the defendant, should their patience fail first. Another pause sometimes ensues, during which the party of the plaintiff discuss in an under tone which of their company shall be "opening counsel." This decided, the "learned gentleman" commences a minute statement of the case, the rest of the party confining themselves to occasional suggestions, which he adopts or rejects at pleasure. Sometimes he is allowed to proceed almost uninterrupted to the close of the statement, the friends of the defendant listening with silent attention, and treasuring up in their memories all the points of importance for a future stage of the proceedings. Generally, however, it receives a thorough sifting from the beginning, every assertion of consequence being made the occasion of a most searching series of cross questions.

The case thus fairly opened, which often occupies several hours, it probably proceeds no farther the first day. The plaintiff and his party are told that the "men" of the place are from home; that there are none but "children" present, who are not competent to discuss such important

matters. They accordingly retire, with the tacit understanding that the case is to be resumed the next day.

During the interval, the defendant formally makes known to the men of the neighbouring kraals that an action has been entered against him, and they are expected to be present on his behalf at the resumption of the case. In the meantime, the first day's proceedings having indicated the line of argument adopted by the plaintiff, the plan of defence is arranged accordingly. Information is collected, arguments are suggested, precedents sought for, able debaters called in, and every possible preparation made for the battle of intellects that is to be fought on the following day. The plaintiff's party, usually reinforced both in mental and in material strength, arrive the next morning and take up their ground again. Their opponents, now mustered in force, confront them, seated on the ground, each man with his arms by his side. The case is resumed by some "advocate for the defendant" requiring a re-statement of the plaintiff's grounds of action. This is commenced, perhaps by one who was not even present at the previous day's proceedings, but who has been selected for this more difficult stage of the case on account of his debating abilities.

"Then comes the tug of war." The ground is disputed inch by inch; every assertion is contested, every proof attempted to be invalidated; objection meets objection, and question is opposed by counter question, each disputant endeavouring, with surprising adroitness, to throw the burden of *answering* on his opponent. The Socratic method of debate appears in all its perfection, both parties being equally versed in it. The rival advocates warm as

they proceed, sharpening each other's intellects, and kindling each other's ardour, till, from the passions that seem enlisted in the contest, a stranger might suppose the interests of the nation to be at stake, and dependent upon the decision.

When these combatants have spent their strength, or one of them is overcome in argument, others step in to the rescue. The battle is fought over again on different ground: some point, either of law or evidence, that had been purposely kept in abeyance being now brought forward, and perhaps the entire aspect of the case changed. The whole of the second day is frequently taken up with this intellectual gladiatorship, and it closes without any other result than an exhibition of the relative strength of the opposing parties. The plaintiff's company retire again, and the defendant and his friends review their own position. Should they feel that they have been worsted, and that the case is one that cannot be successfully defended, they prepare to attempt to bring the matter to a conclusion by an offer of the smallest satisfaction the law allows. This is usually refused, in expectation of an advance in the offer, which takes place generally in proportion to the defendant's anxiety to prevent an appeal. Should the plaintiff at length accede to the proposed terms, they are fulfilled, and the case is ended by a formal declaration of acquiescence.

If, however, as it frequently happens, the case involves a number of intricate questions, that afford room for quibbling, the debates are renewed day after day, till the plaintiff determines to appeal to the decision of the *umpakati*, who has charge of the neighbouring district. He proceeds with his array of advocates to his kraal, and

the case is re-stated in his presence. The defendant confronts him, and the whole affair is gone into anew on an enlarged scale of investigation. The history of the case, the history of the events that led to it, collateral circumstances, journeys, visits, conversations, bargains, exchanges, gifts, promises, threatenings, births, marriages, deaths, that were taken, paid, made, given, or occurred in connection with either of the contending parties, or their associates, or their relatives of the present or past generation, all come under review, and before the "court of appeal" has done with the affair, the history, external and internal, of a dozen families, for the past ten years, is made the subject of conflicting discussion.

The "Resident Magistrate" decides the case, if he can, after perhaps a week's investigation; but if not, or if either party be dissatisfied with his decision, an appeal can still be made to the chief "in council."

Should this final step be resolved on, the appealing party proceeds to the "Great Place." Here, however, more of form and ceremony must be observed than before. As soon as he and his company arrive within hearing, he shouts at the full extent of his voice, "Ndimangele!" (*I lodge a complaint*). "Umangele 'nto nina?" (*You lodge a complaint of what?*) is the immediate response, equally loud, from whichever of the "men of the Great Place" happens to catch the sound. A shouting dialogue commences, the complainants approaching all the while till they have reached the usual position occupied on such occasions, a spot at the respectful distance of some fifty paces from the council hut. The dialogue lasts as long

as the *umpakati* chooses to question, and then ceases. The complainants sit still. Bye and bye someone else comes out of the house and sees the party. "What do *you* complain about?" "We complain about so and so;" and the case is begun afresh. He listens and questions as long as he likes, and then passes on. A third happens to be going by. The enquiry is repeated, and *again* a statement of the case is commenced. The *umpakati wakwomkulu* questions as he goes, and without stopping continues his interrogations till he is out of hearing. This tantalizing and seemingly contemptuous procedure is repeated at the pleasure or caprice of any man who chances to form one of the "court" for the time being, and it would be "contempt of court" to refuse to answer. At length, when it suits their convenience, the councillors assemble, and listen to the complainant's statement. The opposite party, if he has not come voluntarily to confront his accusers, is summoned by authority. On his arrival the former processes of statement and counter-statement are repeated, subject to the cross-examining ordeal through which old Kafir lawyers know so well how to put a man. The chief meanwhile is perhaps lying stretched on a mat in the midst of his council, apparently asleep, or in a state of *dignified* indifference as to what is going forward. He is, however, in reality as wide awake as any present, of which he can generally give proof should he see fit to assume the office of examiner himself. He sometimes does so, after having listened to the debates that have taken place in his presence, and then decides the case. At other times

he forms his decision upon the result of the investigation conducted by his councillors, and takes no part in the case but to pronounce judgment. On this being done, the party in whose favour judgment is given starts up, rushes to the feet of the chief, kisses them, and in an impassioned oration extols the wisdom and justice of his judge to the skies. A party from the "Great Place" is sent with him to enforce the decision, *and bring back the chief's share of the fine imposed*, and the affair is at an end.

5. MARRIAGE CUSTOMS.

Amongst the national usages of the Kafirs, as amongst those of other tribes and nations, the customs connected with Marriage rank first in importance, as influencing the entire social condition of the people. Some account of these will form the subject of the present article.

Polygamy is universally allowed throughout all the tribes, nor is there any legal limit to the number of wives a man may take. The actual number generally bears some proportion to the wealth of the husband; not, perhaps, so much from its regulating his desire to increase it, as from its determining the inclinations of those who have marriageable daughters to dispose of; for as the refusal of a proffered bride is regarded as an insult to her family, to reject one when sent would often involve the party doing so in considerable trouble, and might, indeed certainly *would*, in some cases, expose him to the danger of seeing his cattle swept off to wipe away the affront. On the principle, therefore, "of two evils to choose the least," an old man sometimes consents to take another and a young

wife, when his inclinations would lead him to demur. For in Kafirland at least, such an enlargement of the domestic establishment by no means guarantees an increase of domestic happiness. The jealousies and rivalries of the spousal "sisters," as they designate each other; and the still greater evils flowing in such a state of society from such unnatural associations, often prove the plague of the husband's life, and frequently result in the dismissal or abandonment of such of his wives as cause him the greatest annoyance. The average number of wives to each married man amongst the common people is about three. Some of the rich *amapakati* are known to have as many as ten, and some of the chiefs twice that number.

Concubinage is also allowed, and amongst the chiefs exists to a considerable extent. Their concubines are usually women selected from amongst their own people, who have become objects of attraction to their rulers, but whose parents are not of sufficient consideration to demand on their behalf the more honourable rank of wives. It is, however, by no means uncommon for a chief to raise a favourite concubine to that rank, after some years' cohabitation. Amongst the common people, concubines consist of two classes, the voluntary, and the bestowed. The former are those who have become such by personal consent, and arrangement with the relatives in whose guardianship they are. The latter are such as the chiefs have authoritatively allotted to the young men of their retinue, who have acquired their special favour during their term of service at the "Great Place;" and who have therefore obtained permission to select female companions

from amongst their acquaintance, without incurring the expense of the marriage dowry. As concubines have a legal standing, their offspring are not considered illegitimate. They rank, however, inferior to the children of the "married wives;" nor can they inherit, except in default of male issue on the part of the latter.

In a preceding article, an account is given of the peculiarity in the law of inheritance, which arises from the investiture of certain of the wives of the chiefs with a rank above the rest. The same custom obtains throughout all the grades of Kafir society. The "great wife," the "wife of the right hand," and the representative of "the house of the father," are found amongst all classes, should the husband have as many as three wives; and should they exceed that number, the children of the rest have no claim on their father's property beyond the portions given to them by their father himself during his lifetime.

The younger sons of a family are not competent to marry while their elder brother remains single. The order of seniority is not, however, observed any farther. The firstborn once "settled in life," the rest may follow, as inclination and circumstances lead. The origin of this custom is probably to be found in the priority of claim which the eldest son, in virtue of his primogeniture, is deemed to have upon his father's aid in providing a dowry. >>

The business of negotiation in matrimonial affairs differs accordingly as the proposal comes from the representatives of the bride, or from those of the bridegroom. A man sometimes fixes his desire upon a young woman, and at once proposes to her guardians that she shall be

sent to his residence in the ordinary manner. If his proposal be accepted, it serves to cut short some part of the ceremonies afterwards to be described.

It is sometimes the case, also, that two young men select as the object of their choice the same young woman. They commence a course of rival bidding for the father's consent, and the daughter's affections. The cattle of the respective candidates are sent to the father of the object of their rivalry by one or two at a time, as may be necessary in each case to advance a step beyond the opposite side. When the highest bidder has reached his maximum, the cattle of both are surveyed together, and the lady is called upon to declare her own choice of the candidates themselves. If this should happen to coincide with that of her parents with respect to the cattle, so much the better. If not, a contest commences of persuasion *versus* authority. It *sometimes* occurs that the entreaties of the daughter prevail over the avarice of the father, but such cases, the Kafirs admit, are rare. Kafir fathers have for the most part their full share of those principles of human nature which in more *enlightened* countries lead parents to sacrifice the "foolish" inclinations of their children at a golden shrine; and accordingly the highest bidder usually gains the prize. The cattle of the unsuccessful candidate are then driven *by the fair one herself*, arrayed in her best ornaments, to the home of their owner, and left in his kraal. This is the *coup de grace* of rejection, and is a piece of refinement in punishing a stingy suitor, worthy the notice of the *undervalued* ladies of more civilized nations.

Such cases as the above often occur. In the ordinary course of things, however, negotiations are begun by the father of the bride, and especially so, if she be a person of rank. The process is frequently a very lengthy one. A husband having been fixed on, the first step is to send a person by night to his residence, with an introductory present called *umlomo*, or "the month." This present, consisting of ornaments, such as beads, or brass wire for bracelets, must be left secretly, as otherwise etiquette would require its being returned. Whether or no this custom has had its origin in the excessive bashfulness of the men does not appear. The discovery of the "month," after its bearer is gone, is frequently the first intimation of a proposed matrimonial alliance, and it may still be unknown from what quarter the proposal comes. Sometimes the requisite information is left in the neighbourhood. At other times, where more caution is required, a visitor, or rather a passer by, calls the next day, *quite accidentally*, it should appear. In the course of "telling the news," in compliance with the universal requisition made upon strangers, he mentions *cursorily* that he happened to hear so and so drop some hints of an intention to send his daughter to be married in the neighbourhood. Of course he *happens* also to know something of the lady herself as of her family, and can give some information respecting her personal attractions, and other good qualities. He may even be gallant enough to advocate her cause, although of course, quite disinterested. From the character of the conversation that follows, he is soon able to gather in what way these first advances are received, and what are

the probabilities of a prosperous issue to the negotiation. If the ambition of the lady's friends should have led them to aim at too high a mark, (for family pride is by no means too refined a feeling for a barbarian breast), or if other circumstances should determine the selected party to decline the alliance, the "mouth" is sent back to tell its owner of her rejection. If, on the contrary, either the desires or the fears of the bridegroom elect induce him to regard it favourably, the way is open for the next step in this interesting and important business.

It should not pass unremarked, that when the proposed bride is a chief's daughter, the introductory present is not left secretly, but dropped in the presence of those to whom it is sent. They instantly endeavour to seize the bearer, who takes to his heels, pursued by all the young men of the place. Should he outstrip them, and escape capture, his credit is saved. But if he is caught, his hands are tied behind him, the present bound to his back, and himself sent home to become the laughing stock of his associates, of whom the female portion are not the least severe, upon his failure. The "mouth" is then entrusted to the care of some light-footed messenger, while the former one bears his disgrace as he can.

The next step in the process is the arrival, at the kraal of the bridegroom elect, of two or three persons, usually women. These also arrive in the night. They seat themselves near one of the huts in the open air in silence, and remain there till discovered by some of the people of the place. On being questioned, they give some fictitious account of themselves. On being invited to lodge for the

night, they decline. This is the intimation that they form the party sent to *hlolela* or "spy for" the bride. A hut is then appropriated to their use, and they there await the result of this second step. Weeks sometimes elapse, during which they have little or no intercourse with the people of the place, farther than is necessary to obtain food. Now and then, one of the party pays a visit home to report progress. She must not, however, be seen to depart, nor to arrive on her return. In the mean time the men of the place have resolved themselves, assisted by their neighbours, into a "committee of ways and means," on the subject of the dowry. When this important matter has been fully discussed, the "spies" are informed that the bride may come. This information being transmitted, the *uduli*, or bridal party, makes its appearance, consisting of the bride herself, a number of young female companions, the representatives of her father or guardians, and some young men as attendants or messengers. The party takes possession of the hut occupied by the "spies." In due time the master of the kraal sends word that the bride is to present herself "to be seen." She accordingly proceeds with one or two of her companions to where the men are assembled. She kneels before them at a short distance, uncovered from the waist upwards, while her defects or beauties of person are freely criticised. When this is over, she retires, leaving behind her a present of beads or buttons. She is afterwards called for by the women, and a similar ordeal is endured, another present being left on retiring. In the meantime the dowry negotiation is going forwards between the representatives of the two

parties; the demands of the one, and the statement of difficulties by the other, occupying a considerable time. At length the men of the bridal party are summoned to the cattle kraal. An ox is caught in their presence. They look on in silence and retire. The animal is slaughtered, and the meat sent to them. This is the ratification of the contract, and the signal for the marriage festivities to commence. The presents of the father of the bride to his son-in-law are produced. These are, one head of cattle for a kaross, another, the hair of the tail of which is to be worn round his neck as a charm, and, if the bride be a person of rank, a number of cows to furnish a milksack and its contents for his sustenance. The number of the latter varies from two or three to ten, according to the wealth or ostentation of the party who sends them. The neighbours are invited to the wedding, and the dancing and feasting begin. These festivities usually last three days among the "commonalty." When a chief of rank is married they continue eight or ten days. On the last day, when the sun is declining, the ox races are held. While the youth and more fiery of the elder guests are absent at this sport, the *ukutshata* takes place. This is the great ceremonial of the occasion, but strikingly characteristic of the barbarism of the people. The bride, and two of her companions as supporters, walk in procession. Their only clothing consists of the skins of the orobie, tied round the loins. Their heads are bare, and their bodies covered with light red ochre, which presents the more remarkable appearance from the bright yellow of the orobie skins. They proceed arm in arm, "with

solemn steps and slow," towards the gate of the cattle kraal, the bride carrying in her hand a single assagai. Their air is that of victims about to be offered in sacrifice, for which they would certainly be taken by any one ignorant of the customs of the country. As they proceed on their way, one of the male attendants removes any sticks or stones that may chance to lie in the path. On reaching the kraal gate, the bride throws the assagai within it, and leaves it there. The procession then moves towards where the men are assembled, the women of the place preceding the bride, and imitating in dumb show her future duties, such as carrying wood and water, and cultivating the ground. On reaching the assembly of the men, the procession halts, and the bride is lectured on her future conduct by any one of them who chooses. There is no deficiency of coarse brutality of remark in this part of the ceremony, which continues as long as the lecturers please, the bride standing before them in perfect silence. It is, however, the *finale* of the ceremony. On receiving permission to retire, the procession returns to the place from which it set out, the guests depart, the bride takes possession of a new hut that has been erected for her, and assumes her assigned position in the domestic establishment of her new "lord and master."

The number of guests present at these festivities is sometimes very great. At the marriage of chiefs of high rank, they amount to thousands. On such occasions the greater portion of the tribe assembles, and all the other chiefs within one or two days' journey are expected either to attend in person, or send their racing oxen. To neglect

to do either would be considered an affront. The bridegroom and his friends provide the slaughter cattle for the feast; but the guests bring their own milch cows and milksacks. From four or five to fifty head of cattle are slaughtered, according to the wealth and rank of the parties.

Such is the marriage ceremonial in the "respectable circles" of Kafir society. There is also an abridged form, in which the *ukutshata* and the ox racing are omitted, and the feasting and dancing much curtailed. This, however, is considered a discreditable mode of getting married, and is therefore chiefly confined to the poorest of the people.

There is another custom connected with the marriage of chiefs, or rather supplementary to it, very characteristic of the people; but which, like several others, is falling into disuse among the frontier tribes. At the close of the first year of marriage, the male relatives of the bride muster and form a party to go and pay the congratulatory visit. On their coming in sight, however, a rival muster takes place of the friends and retainers of the husband, who go out to resist the advance of the other party. The result is a cudgel match on a large scale, from pure friendliness, of course, but which nevertheless does not prevent heads and limbs from being broken. Should the friends of the bride drive the other party off the ground, the welcoming present of cattle made by the husband is expected to be so much the larger; but if the opposite side win the day, the demands of the congratulators are proportionably lessened.

The general Eastern custom of paying a dowry, or marriage price, for their wives, obtains throughout the Kafir tribes. Cattle, the number varying according to the rank of the bride, from ten to a hundred head, constitute this dowry; and the desire of obtaining as many cattle as possible, usually leads her father or other guardians to send her to the richest man their own rank will warrant, without any regard to her own inclinations, or the age, disposition, or domestic circumstances of her intended husband. As this custom has been considered to reduce the wife to a mere article of merchandize, it has been condemned in strong terms, on the ground of its degrading influence. It must be acknowledged that although the *principle* of the usage has the sanction of patriarchal antiquity, and is mentioned, without prohibition, in the Old Testament, its *circumstantials*, as existing amongst the Kafir tribes, partake of the grossness to be expected in a barbarous state of society. It is but fair, however, that the whole case should be exhibited. The transaction is not a mere purchase. The cattle paid for the bride are divided amongst her male relations, and are considered by the law to be held in trust for the benefit of herself and children, should she be left a widow. She can accordingly legally demand assistance from any of those who have partaken of her dowry; and her children can apply to them on the same ground for something to "begin the world with." Nor can the husband ill-treat her with impunity. On experiencing any real grievance, she can claim an asylum with her father again, till her husband has made such atonement as the case demands.

Nor would many European husbands like to be subjected to the usual discipline on such occasions. The offending husband must go in person to ask for his wife. He is instantly surrounded by the *women* of the place, who cover him at once with reproaches and blows. Their nails and fists may be used with impunity, for it is the day of female vengeance, and the belaboured delinquent is not allowed to resist. He is not permitted to see his wife, but is sent home, with an intimation of what cattle are expected from him, which he must send before he can demand his wife again. And this process, should it be necessary, may be repeated over and over again, to be closed, in incorrigible cases (should the women have borne any children), by the father's finally detaining his daughter and her dowry together. So that the husband may at last lose wife and cattle both.

II. CHIEF COMMISSIONER'S LETTER

TO MR. WARNER, TAMBOOKIE AGENT.

Fort Murray,
25th February, 1856.

I am much obliged to you for so kindly acceding to my rather troublesome request, and I am the more obliged to you, as without some such help, and without some insight into the nature of Kafir law, the newly appointed Magistrates might feel some difficulty in forming an opinion on the cases brought before them, which would be thought fair and just, and in cases of fines, would be liable to be imposed upon and misled.

So as not to trouble you overmuch, I will not ask you to plan any arrangement, but merely to jot down any thing as you may happen to think of it, or as circumstances may bring it to your memory; and as a sort of remembrancer, I have jotted down the heads of various subjects in the enclosed memorandum.

I have also numbered each, so that these, without their quoting, will tell the subject, by your heading each note with the *number* of the query.

As there is safety in the multitude of counsellors, so I hope, by gathering and comparing, we may get a general and correct view of Kafir jurisprudence, and I hope you will not mind your name being mentioned to the Governor as one of the said counsellors.

(Signed) JOHN MACLEAN,
CHIEF COMMISSIONER.

III. Mr. Warner's Notes,

DATED TAMBOOKIE RESIDENCY, DECEMBER 1st, 1856.

PRELIMINARY REMARKS.

For convenience, Kafir Laws may perhaps be divided into Criminal and Civil, as with us; but then the cases classed under these two heads, will be a very different classification from ours.

Criminal Cases will comprise such only as are prosecuted by the chiefs themselves, and the fines for which are claimed by them as their unalienable right; and which fines are denominated "*Isizi*." Such cases are probably all included under the heads of National offences, all crimes of a political nature, breaches of the peace, charges of sorcery, &c., and crimes against the persons of individuals.

All other cases will come under the head of Civil Cases, These are prosecuted by the Plaintiffs, and the fines, or compensation, are always awarded to, and claimed of right by them; and the chiefs have no right or claim to any part thereof. But if the Plaintiff obtains judgment in his favour, he has to pay the "*Imisila*," or Sheriffs, employed to execute the sentence of the Court, out of the fines

awarded to him ; and which demand generally amounts to about one-third of the value of the fine. If judgment is given in favour of the Defendant, there are no law expenses to pay, because there being no sentence to enforce, there is no occasion to employ Sheriffs. The decision of the Court is then simply, "No case."

Kafir Law, strictly speaking, recognises no other punishment than that of fine or compensation. "Eating up," and putting individuals to death for imaginary crimes, such as sorcery, &c., are mere arbitrary acts of the chiefs. "Eating up" is however absolutely necessary, when a kraal or clan resists the sentence or orders of the chief, as he has no other means of upholding his authority and enforcing the law. The grand principle of Kafir Law is *collective responsibility* ; and on this principle depends in a very great degree, the peace and safety of society. Do away with this, while the Kafirs still continue in their present clannish and barbarous state, and they would immediately become unmanageable. Every clan is collectively responsible to the paramount chief, and every kraal is answerable for each member thereof.

The proof of innocence rests in much greater degree with the accused than is the case with us ; evidence of guilt being far more difficult to procure ; for the idea of a Kafir informing or giving evidence against his neighbour, or one of his own kraal, is out of the question,—unless it becomes necessary for him to do so, in order to clear himself, a friend, or the "umpakati" whose retainer he may be ; neither is there any law to force him to do so.

Defendant, Plaintiff, and Witnesses are allowed to tell as many lies as they like, in order to make the best of their case; they have no judicial oaths; and there is consequently no punishment for perjury: and it is in cross examination, and in sifting out the truth from such a mass of lies and misrepresentation, that the ability and cleverness of Kafir lawyers shine forth.

Plaintiff and Defendant are allowed to state their case in their own way, and to produce any kind of evidence; and the court has the right to cross examine in any manner it may think proper, and to put whatever leading questions it chooses. In fact, any thing is justifiable which is done by the court with the aim of eliciting the truth; and any thing is justifiable on the parts of the plaintiff and defendant, which may be done by them with a view to the bettering of their case.

The parties concerned, have the right to compromise any *civil* case, without bringing it before either the "Amapakati," or the chief: but they have no right to compound for *criminal* cases, as that would be robbing the chief of part of his revenue. Civil cases may be adjudicated by any "Umpakati," if the parties agree to lay the case before one; but there is an appeal from such decision to the chief, and no court of "Amapakati" has the power to use force to carry out its sentence, without permission from the chief. The "Amapakati," however, often levy the fine for assault (which is a criminal case) and retain it for their own benefit, but this is not legal, and the chief can, at any time, demand it to be given up to him.

Kafir Law is chiefly a law of precedents ; (for although the reigning chief has the power to make new laws, he seldom exercises this prerogative) ; and there appears to be no uncertainty whatever in its administration. It is very defective in many respects ; yet on the whole it is well suited to the present state and circumstances of the Kafir Tribes. And although it is very desirable that it should be superseded by the introduction of a modified form of our superior laws ; yet this must be a work of time, and can only be accomplished by degrees, and as the people progress in civilization. The greatest defect of Kafir Law is, that it is administered by the same parties who have the power to make new laws or alter the old ones, viz. the chiefs.

The laws, however, connected with their *system* of *superstition*, as well as many of their social and domestic customs, are highly injurious, subversive of morality, and entirely inimical to Christianity and civilization ; and every effort, consistent with maintaining the peace and tranquility of the country, ought to be made for their gradual abolition.

In conclusion I may remark that there may be slight variations in its details and administration among the different tribes ; and that my notes and compendium are in accordance with Tambookie usages. Kafir Law is however substantially the same among all the Amaxosa tribes.

FIRST PART.

LAWS AND CUSTOMS CONNECTED WITH THEIR JUDICIAL AND SOCIAL SYSTEMS.

1. CRIMINAL CASES.

HOMICIDE.

Kafir Law seems to make little or no distinction

between wilful murder and any other kind of homicide : unless it be, perhaps, that in purely accidental homicide, the full amount of the fine may not be so rigidly insisted upon. All homicide must however be atoned for ; the principle assumed being, that the *persons* of individuals are the property of the chief, and that having been deprived of the life of a subject, he must be compensated for it. The fine for a male is seven head of cattle, and for a female ten head ; the life of a female being more valuable than that of a male, on account of the dowry obtained for her at her marriage,

Compensation for all kinds of homicide is so universally insisted upon, that should even an "Igqwira," or person charged with the crime of sorcery, die under the torture to which he is always subjected, or be killed, without the sanction of the chief, the "Isizi," or atonement, must be paid, unless the chief thinks proper to forego his claim, and which he sometimes does in such cases. The case is not altered in "Faction fights," where for each individual who may be killed, the fine is inflicted upon all the parties engaged ; unless such fight was authorized by the paramount chief himself. And even in death occurring from natural causes, unless the chief is formally made acquainted therewith, immediately on such an event happening, the "Isizi" can be demanded.

This kind of law does not at all accord with our ideas of Justice : and it is one of the most defective parts of Kafir law. And yet, its practical working must be good, or the Kafirs are the opposite of bloodthirsty ; as the shedding of blood, except in times of war, is a rare occurrence among them.

ASSAULT.

Under this head will be included every kind of bodily injury less than death, inflicted by one individual upon another, from the most severe, down to a single blow with a stick. Nothing seems to justify one man striking another, not even in self defence; and both parties are generally fined, unless it be clearly proved that the assault was all on one side. The fine is from one to five or six head of cattle.

RAPE.

This is a crime; but it must be clearly proved, and then the fine is not more than from one to three or four head of cattle.

ABORTION.

The procuring of abortion, although almost universally practised by all classes of females in Kafir society, is nevertheless a crime of considerable magnitude in the eye of the Law; and when brought to the notice of the chief, a fine of four or five head of cattle is inflicted. The accomplices are equally guilty with the female herself.

UNNATURAL CRIMES.

These are almost entirely unknown. Indeed during a residence of twenty-five years among the Tambookies, I have only heard of one case of the kind. This was a case of sodomy. I think the fine was five head of cattle. It was considered a criminal case, and the fine was accordingly claimed by the chief.

INCEST.

Misdemeanours which would come under this head with us, are not punishable by Kafir Law; but they have a far more powerful preventative in their superstitious fears, which teach them to dread that some supernatural evil will befall the parties committing such acts; they lose caste as it were, and are considered in the light of sorcerers: hence such crimes are seldom committed.

Consanguineous marriages are prohibited by custom rather than by law; and if the parties are not too nearly related, and resolutely persist in their determination to marry, and if the man is prepared to pay pretty dearly for his wife, they generally succeed in gaining their point. Such cases are however very unfrequent.

Relationship by *affinity* merely, and not by *blood*, presents no obstacle to marriage, and a man may even marry two sisters at the same time.

2. CIVIL CASES.

ADULTERY.

This is a crime against the property of the husband, and is, as with us, a Civil case. The fine is from one to three or four head of cattle, according to the rank of the husband.

If pregnancy be proved to have resulted from such illicit connection, the fine is from seven to ten head.

The child in such cases belongs to the husband, who, after receiving the fine, is bound to provide for it. Adultery is only a crime when committed by the wife.

The husband has the right to cohabit with as many women as he thinks proper; provided they are not the wives of other men. A man seldom or never divorces his wife for this crime.

SEDUCTION OF VIRGINS.

Seduction of virgins, and cohabiting with unmarried women and widows, are not punishable by Kafir law, neither does any disgrace attach to either sex by committing such acts. Indeed they have no name for virgin in their language, and when a girl arrives at the state of puberty, the fact is announced by a public festival, and which is tantamount to a declaration, that the girl in question is now fit for the use of man. This promiscuous intercourse of the sexes is however subject to certain rules and customs; but even when committed in a clandestine manner it is not punishable; nor, as I before stated, does any disgrace attach to the parties concerned.

If however pregnancy ensues, the father or guardian of the woman, can demand a fine of one head of cattle from the father of the child. The child then belongs to its father; and when it is sufficiently grown, he can claim it, by paying two or three head of cattle for bringing it up, &c. If no such fine is paid, then the child is the property of the parents or guardian of its mother.

The birth of children does not, however, so frequently follow from this kind of intercourse as one would suppose, on account of the almost universal practice of procuring abortion, as soon as it is known that pregnancy has taken

place; and they have herbs which cause abortion with little or no danger to the women herself, if administered within the first two or three months.

THEFT.

All kinds of theft will come under the head of Civil cases. Seizing property by force on the plea of retaliation, taking the law into one's own hands, or on any other pretence whatever, does not come under the head of Stealing. Property thus seized must however be restored, or compensation given to its value. In all such cases, the unfortunate Plaintiff has to pay the law expenses, although he seldom gets the full amount of his property restored to him. In all cases of theft of live stock, the law allows a fine of ten for one; but the full amount of this fine is seldom enforced in the present day, especially when the number stolen is more than one or two head.

In cases of petty thefts, the fines inflicted are very insignificant, and seldom amount to more than the value of the articles stolen.

The stealing of live stock is the most important law case in Kafirland; and the following are the principal points to be attended to.

If the property is recovered uninjured, no fine is paid; and if part of the property is restored uninjured, the thief is only fined for the missing or injured part.

The custom of demanding payment for the "Spoor," where Colonial property is concerned, although it may be restored uninjured, has been introduced by the Colonial Government, and agreed to by the chiefs; and it is of the

utmost importance that it should be continued. And if possible, it should also be introduced in cases of Kafir versus Kafir, among those tribes which are under our control.

The custom of handing the "Spoor" over to the first kraal, and expecting them to pass it on to the next, &c., is also an innovation introduced by the Colonists, but which appears to be absolutely necessary, otherwise Colonial property would never be recovered as no kraal, or clan, would ever give information respecting, or assist in recovering, the "white man's" property, were they not obliged to do so; and it is only carrying out their own principle of "collective responsibility." Among themselves, the owners of the stolen property have to follow the "Spoor" whithersoever it goes; and the only assistance they can demand from others is, that when it approaches within a short distance of a kraal, say five or six hundred yards, they inform the people of the said kraal of the "Spoor," and they are bound to assist in passing it on beyond their kraal, to about the same distance as above mentioned, when they return, and the owners proceed on alone. If the people of a kraal refuse to assist in tracing the "Spoor" past their kraal in the manner described, and the owners cannot succeed in tracing it any farther, they are then considered as the guilty party, and the charge of the theft is at once laid against them. Making the kraal nearest to which the "Spoor" has been obliterated pay for the theft, without any other proof of their guilt, is another necessary innovation of ours, arising out of the before mentioned disinclination of the Kafir to give information against the stealer of Colonial property. Among themselves, in order to establish a case against a

kraal, the "Spoor" must be traced to within its precincts at least; and even then every exertion must be made by the owners of the stolen property, in conjunction with the people of the said Kraal, to pass it on. And even when unsuccessful in doing this, it is very desirable that some additional proof of guilt should be obtained, as the chiefs frequently throw out cases where there is no other proof of guilt than that the "Spoor" was traced on to the kraal. The simple fact of the "Spoor" having been obliterated by cattle is not of itself sufficient to establish a case against the owners of such cattle; although we have made it so in cases where Colonial property is concerned.

Concealing a theft is no crime; but assisting to commit one is. Neither is it a crime simply to partake of the flesh of a stolen beast, knowing it to be such, unless the parties are in some way connected with the theft as accomplices.

In cases of theft (or indeed of any other crimes to which the principle of collective responsibility is applicable) it is not necessary to identify the thief; nor is it necessary that he should be produced, or even known. It is sufficient if a case has been clearly established against a kraal.

INJURY TO PROPERTY, TRESPASS, &C.

Kafir Law requires that all wilful injury to property be compensated for to the full value of the property injured. If you set fire to the grass, and accident to person or property is occasioned thereby, the law will require you to make compensation for the injury done. If your dogs injure person or property, and you did not exert yourself to prevent it, when you might have done so, a case lies against you.

But the law does not appear to demand compensation for what is clearly proved to have been a purely accidental injury to *property*, although it will do so in accidental injuries to the *persons* of individuals, if the injury is of a serious nature; as the latter would come under the head of criminal cases, and therefore could only be overlooked, or the fine remitted, by the chief himself.

Trespass or injury done to cultivated lands or standing crops by live stock is not actionable; but as the women, who have charge of the cultivated fields, have the right, sanctioned by immemorial custom, to drive the cattle thus trespassing into the fields of their owners, trespasses of this kind are not of frequent occurrence. This singular custom is, I believe, the only instance in which Kafir Law justifies, or rather allows of, retaliation.

To make use of fallow lands originally brought under cultivation by another, if the owner has abandoned them, is not a trespass, and is a very common practice; but should the original cultivator return and claim them, they must be given up to him when the crops have been reaped.

MARRIAGE.

Marriage among the Kafir has degenerated into slavery, and is simply the purchase of as many women by one man as he desires, or can afford to pay for.

The price or dowry paid for a wife is left very indefinite. It is not all paid at the time of marriage, but by degrees; and the husband appears to be for a long time liable to fresh demands for cattle, under some pretext or other. Ten head is, however, the ordinary price among the

commonalty ; but twenty or thirty are frequently demanded for chiefs' daughters ; and chiefs of high rank have to pay from thirty to fifty head, and even more, for their wives, when they marry the daughters of chiefs of equal, or superior, rank to their own.

The dowry or price paid for a wife is called the "Ikazi," and which name distinguishes it from the "Ikebe," or price paid for the temporary use of a woman or concubine, who is called an "Ishweshwe," the name of a proper wife being "Umfazi."

The payment of the "Ikazi" is the legal proof of marriage, and is the only thing really necessary thereto : although dancing, feasting, &c., are generally indulged in on such occasions.

Courtship as it exists with us is unknown. Sometimes a man chooses for himself, and intimates his choice through a third person to the father or guardian of the girl ; but the usual way is for the friends of the girl to consult together and select a husband for her, and to send her to the man thus chosen.

The girl herself is seldom or never consulted about the matter ; and a man to whom a girl is thus sent, seldom refuses to receive her.

Until all demands with regard to the dowry have been satisfied, the father or guardians of the woman have a legal right to detain her in their custody, should they succeed in getting peaceable possession of her person ; but they must not use force for this purpose. This singular custom is called "Ukuteleka," and it leads to a vast amount of domestic misery and wickedness.

Although in theory, perhaps, the power of the husband over the wife is considered absolute in every thing but taking her life ; yet in reality there are many checks to his power. His own friends will interfere to prevent his indulging in any great degree of brutality towards her. If he mutilates her, or inflicts any permanent injury on her body, the Chief will demand the "Isizi" or blood atonement. If also she can succeed in running away to her friends, they have a legal right to make an additional demand of cattle to those already paid for her, and to detain her until such demand has been complied with. And if a woman utterly refuses to live with her husband, on account of ill usage, there is no law to compel her to do so ; and the only remedy he has, is to demand that the dowry be refunded to him ; but the law will not support him even in this, if she has borne him a family of children. Kafir husbands are not however generally cruel to their wives in the common sense of that word. Their wives are nevertheless mere slaves, and have all the drudgery and laborious work to perform.

If a wife dies without having borne children to her husband, the law will support him in his demand for the dowry to be returned to him ; unless she has been married to him a considerable number of years.

DIVORCE.

A man may divorce his wife at pleasure, without assigning any reason for so doing. And yet divorces are not frequent among them. First, because of the great difficulty there is in recovering the dowry, even when the

husband is entitled to demand it, and which he is not, if his wife has borne him children. And secondly, because by so doing he deprives himself of her labour as his servant. Marrying another wife is therefore the more common plan adopted to humble and annoy a wife, when she is inclined to be independent and unruly.

A Kafir seldom divorces his wife for adultery; he prefers receiving the fine on such occasions, and giving her a good thrashing.

The wife also seems to have the power of divorcing her husband, according to what I have said bearing on this subject under the head of marriage. In case of a woman thus leaving her husband, if she marry again, the law will order the former dowry to be restored, although she may have borne children to her former husband.

In all cases of divorce the children belong to the father, and are entirely under his control.

INHERITANCE.

It may be thought that on account of the universal practice of polygamy, the law with regard to inheritance would be very confused and uncertain; but nothing can be more plain and definite.

Each wife has a separate establishment. If a man has three wives, their establishment will be thus distinguished:—The principal or great wife's establishment will be called the "Ibotwe," the next in rank will be called the "right hand," and the third in rank the "left hand house." If he has less than three wives the above principle will nevertheless be the rule or guide as far as circumstances will

allow. If he has more than three, they will be attached to one or other of the three principal houses; but each of these minor houses will nevertheless have its own separate establishment.

It is usual for the husband to apportion cattle to each of the three major houses, but he seldom goes beyond this; hence the minor houses are generally dependent in this respect upon the major houses to which they are attached. The eldest son of each house inherits all the property which has been allotted by the father to that house.

If the father has neglected during his life time, to declare in a formal and public manner, what portion of his property he has allotted to his several establishments, he may be said to die intestate; in which case the oldest son of the "Ibotwe," or principal house takes possession, as the heir at law, of the whole of his father's estate. But in this case he is bound to take charge of, and provide for, all his father's establishments; which are, however, little burden to him, as the principal care of getting a living devolves on the women themselves.

Females can inherit nothing, but are themselves property. A married woman is the property of her husband; and when he dies, she becomes the property of his heirs; nor can she marry again without their consent.

Children belong solely to their father, and the mother has no claim whatever to them under any circumstances; and when the father dies, they pass together with his other property to his heirs. The dowries of the girls are claimed by the eldest son of the house to which they belong,

nless they had been otherwise disposed of by the father during his lifetime.

The eldest son of a chief's great wife, inherits the chieftainship of the tribe at his father's death.

The principal property among the Kafirs is live stock. The only inheritable landed property recognized by Kafir law, is what has been brought under cultivation, together with the homestead or site of the kraal. This may be claimed from generation to generation, and can be forfeited only by committing some political crime.

Should a man have no sons, his property is inherited by his father if still living; if not, then by his eldest brother of the same house; if there is no brother of the same mother, then the property is inherited by the eldest son of his father's great wife; in case of a failure of a male in that house, then by the eldest son of the next house in rank, and so on. In case of an entire failure of brothers, then the eldest brother of his father, born of the same mother as his father, comes in for the estate.

In case of a failure here, then his father's eldest brother belonging to the "Ibotwe," or principal house, becomes the claimant. If there is no male in this house, then the eldest brother of the next house, and so on, descending from house to house, according to their rank, until a male is found to inherit the property.

In case of an entire failure of male heirs, the estate is claimed by the Chief, together with dowries obtained for the orphan daughters.

MISCELLANEOUS REMARKS.

When an individual obstinately refuses to obey the orders of his Chief, the kraal to which he belongs is held responsible for his conduct ; and the headman thereof is expected to punish him ; the fine going, of course, to the Chief. When a kraal, or clan, is rebellious, the custom of "eating up" is resorted to ; which consists in collecting secretly an armed party, sufficiently strong, and proceeding in as stealthy a manner as possible to such kraal or clan, and seizing all their cattle, &c. If they resist, they are fired upon or assegaied without ceremony ; and should any other kraal attempt to assist the rebels, they also would be eaten up.

"Eating up" is the only physical force which a Chief has at his command to keep his people in order ; and although often abused for political purposes, it is absolutely necessary, as being the only means he has of commanding obedience to the laws.

To maintain his popularity, and cause his people willingly to assist him on such occasions, the booty is always divided among the party engaged on such service, the Chief reserving only a very small portion for himself. Hence the system of "eating up" is very popular among the Kafirs ; and they are always ready to turn out and assist their Chief in plundering their fellow subjects, without ever thinking of inquiring into the merits of the case.

The "Amapakati" have the privilege of going to "busa" at the great place ; that is, they go and reside on the Chief's kraal for a longer or shorter period, according to their own inclinations ; and while they remain there, they form the

court or ministry for the time being ; during which time they enjoy many privileges. They settle all law suits laid before the Chief, and assist him with their counsel in all state affairs ; and they share in all the fines which may accrue to the Chief during their ministry. They are also employed as " imisila," or sheriffs, to enforce the sentence of the Chief, and they receive the fees appertaining to that office.

As the " Amapakati " do not take their wives with them when they thus go to " busa," women, as well as food, are provided for them by the Chief. This has given rise to the outrageous and licentious custom of the " upundhlo," which consists in the Chief sending out a number of the young men belonging to his personal staff, as a " press gang," to collect by force all the girls above the age of puberty, together with any other unmarried women they can lay hold of, and bringing them to the great place ; where they are allotted to the councillors, and any other men, who may belong to the Chief's staff ; and with whom they are obliged to cohabit for the time being. After a few days, they are allowed to return to their homes, and another lot is hunted up. I may mention that the " upundhlo " is not frequently resorted to, when a sufficient number of volunteers can be obtained.

Refugees are always received by the Chief to whom they fly, whatever might have been the nature of the crime for which they fled from their own Chief ; and they are never demanded ; for if they should be, they would not be given up.

When a petty Chief flies with his clan from his paramount Chief, he sends an ox to the Chief whom he has

joined, as an acknowledgement of his having become his feudatory ; upon which a tract of country is allotted to him.

In times of peace, if a refugee is guilty of taking any of his neighbours' cattle with him ; or if any law suit was pending before he fled, such case may be laid before the Chief to whom he has fled, and who generally settles such matters impartially, although there appears to be no international law binding him to do so.

When a Kafir wishes to leave his own Chief and join another, he can only do so by flying at night in the most stealthy manner, if he has any live stock ; for should his intention become known, he would most certainly be "eaten up."

The paramount Chief of each tribe is above all law in his own tribe ; he has the power of life and death, and is supposed to do no wrong. He is, however, subject in some degree to the paramount Chief of the whole nation ; and who again, in his turn, is subject to some control from the united council of his feudatory chieftains.

Excepting the reigning Chief, as above explained, all other members of Chiefs' families are amenable to the law ; although, through interest &c., they often evade it.

SECOND PART.

LAWS AND CUSTOMS CONNECTED WITH THEIR SYSTEM OF SUPERSTITION.

PRELIMINARY REMARKS.

There is no doubt that the Kafirs have a regular system of superstition which answers all the purposes of any other

false religion. And, as individual Kafirs, when they make a sincere profession of Christianity, immediately forsake—even though they may not have been requested to do so—this superstition, and refuse to conform any longer to its rites and ceremonies ; so the system itself must be nationally abandoned, before Christianity can be generally embraced by the Kafirs.

I fear this fact has been too much overlooked. Many missionary agents seem to suppose that the Kafirs have no system of superstition ; but that their superstitions are isolated, and entirely unconnected with, and independent of, each other : just as a weak-minded and ignorant person among us, believing in witchcraft, may nail a horse shoe over the door of his house, to counteract its evil influence ; while another believes that a certain form which the fat of a tallow candle sometimes assumes, and which is vulgarly called a “winding sheet,” is really a death warning. I have heard Missionaries thus argue. This view of the subject, however, is a serious mistake ; for it leads Missionaries who hold it to take for granted, that, in preaching the Gospel to the Kafirs, they have nothing more to contend with than the *ordinary* darkness and corruption of the human heart, and that opposition to its spirituality which is common to all our race. Hence the style of preaching which those who take this view of the subject adopt ; the subjects they select, when preaching to the pagan and infidel Kafirs, being generally such as they would choose, were they addressing a congregation of nominal christians, who, though strangers to its spirituality and saving power, do nevertheless believe in the truth of the Christian Religion. And then, after

years of labour, suffering and privation, on perceiving that they have almost laboured in vain, and spent their strength for nought, they despairingly exclaim, *Why* is it that the Gospel is comparatively powerless when preached to the Kafirs? The answer to this question is, Because in addition to these *ordinary* obstacles, there is most assuredly a *system of superstition* to be denounced and overturned, before they can possibly embrace Christianity; and which is none the less powerfully pernicious because it has (apparently) reference to the blessings and calamities incident to this life only. Now the Kafirs are firm believers in their system of superstition, and thorough infidels with regard to Christianity. They must, therefore, by a systematic process of argumentation, be first convinced of the falsehood and absurdity of the superstition in which they trust, and of the truth and divine authority of the Christian Revelation—just as is being done by the Missionaries in India and among other idolatrous nations, before any extensive good will be done among them. Otherwise there will be a danger of building Christianity on the rotten foundation of their pagan superstition, as the Roman Catholic Missionaries have done in some parts of the world. Nay, has this not already been done (though unconsciously) in some instances, among the Kafir and Fingoe Tribes of South Africa? It is true the Kafirs have no visible symbols by which they represent the imaginary beings whom they dread, and whom they endeavour to propitiate, as some heathen nations have; but they have, nevertheless, that which exactly answers the same purpose.

The mind of man demands something of a supernatural

nature on which to rest, and in which to trust. There appears also to be a conviction, common to the whole human race, of the existence of some invisible beings, who have the power to do good to, or to injure, mankind; and there is an inherent dread of such imaginary beings, and a desire to propitiate them. Well, the Kafirs have a system of superstition, founded on the convictions and feelings of the human mind, and just exactly adapted to that shape or form, which such feelings and convictions would be likely to assume among such a benighted and degraded people.

Independently of the information they have obtained on the subject from intercourse with Europeans, they have certainly lost all vestige of the knowledge of the existence and attributes of a supreme being, as exhibited to us in divine revelation; nor have they the slightest knowledge of a future state of rewards and punishments, arising out of the moral quality of our actions in this life. They have, however, a vague idea of the immortality of the soul; and, in fact, it is the spirits of their departed friends and ancestors, whom they dread, in whom they trust, and whom they endeavour to propitiate. This is the foundation of that system of superstition whose influence is unbounded in all grades of Kafir society, and whose ramifications meet the Missionary at every step—however unconscious he may be of the fact—and present insuperable obstacles in the way of their embracing the Gospel.

They have an order of priesthood among them, entirely separate and distinct from all other classes of society, the great distinctive function of whose office is the faculty of

being able, by means of necromancy, to detect persons guilty of sorcery.

No one can assume *this* function of priesthood without having first passed through a certain occult initiation called "ukutwasa"; and should a person attempt to do so, he would probably be put to death, and his property confiscated to the Chief; and very likely the whole kraal to which he belonged would be "eaten up."

There are however a number of imitators, who have never properly passed through the initiatory rite of "ukutwasa"; all of whom pass under the general denomination of "inncibi," or "amagqira," and seem to be allowed to perform all the other functions of priests except that of "smelling out," as before mentioned. I may also remark that females are permitted to practise as priestesses.

It is remarkable that the word used to express this state of initiation means "renewal," and is the same that is used for the first appearance of the new moon, and for the putting forth of the grass and buds at the commencement of spring. By which it is evidently intended to intimate that the man's heart is renewed, that he has become an entirely different person to what he was before, seeing with different eyes, and hearing with different ears; in short that he now holds communion and intercourse with the invisible world.

The rites connected with the initiation of a person into the priesthood, are known only to the priests themselves. Certain wonderful things, however, befall the individual in question, which are witnessed by all. He is first seized with an unaccountable sickness or ailment, which often continues for months. While in this state, he is constantly groaning,

and appears to endure a great deal of mental, as well as bodily suffering. Then he begins to see and hear supernatural sights and sounds. Bye and bye, a species of insanity seizes him, and he wanders over the country and in the mountains in a very excited state, uttering certain kinds of jargon.

As soon as the real cause of his ailment is suspected by the people of his kraal, viz., that he is under the influence of the "iminyanya," or "imishologu," *i.e.*, the ghosts of the dead, they immediately send a formal notice thereof to the Chief. Priests then proceed to investigate his case, and if they find that he is really in a state of "ukutwasa," and not guilty of imposture, they at once commence performing the initiatory rites of "ukupehlelela," and which are known to none but themselves.

After these rites have been performed, he is pronounced by the priests to be a perfect "isanuse," "intonga" or "igqira," and which terms I choose to translate by the word "priest," in preference to that of "doctor," the term generally employed by Europeans to designate this class of persons. And I do so, because I consider it the more correct term, they being the class of persons to whom it appertains to *offer sacrifices*, and to *officiate in their superstitious rites*; but the administering of *medicines* is merely an accident, and not a necessary function, of their office.

While a person is in the state above described, he often becomes much excited; and at such times nothing can calm him but the "ukwombela," called by the Colonists the "witch dance." This at first excites and makes him more furious than ever. After a while he begins to utter unintelligible jargon: sometimes he pretends to predict future

events, but more commonly he declares things connected with the present time, such as the causes of sickness or other calamities under which certain persons may be suffering; and he prescribes charms and sacrifices to remedy them, after which he becomes calm.

The ceremony of "ukwombela," is performed by beating a dry bullock hide, called the "ingqongqo," with sticks, and humming certain tunes, in which the whole assembly joins. It is always performed when the priest is expected to exercise the functions of his office, to excite him, and to "get up the steam," if I may so express myself. The tunes thus hummed are really very exciting, and are supposed to be peculiarly grateful to the "imishologu." And the priest seems to have little or no power to prophesy, or declare the revelations he receives from the "imishologu," but under the influence of the frenzy excited by the performance of this ceremony; and which frenzy is called "ukuxentsa."

It is impossible to suppose that these priests are not, to a considerable extent, self-deceived, as well as the deceivers of others; and there is no difficulty, to one who believes the Bible to be a divine revelation, in supposing that they are also, to a certain extent, under satanic influence; for the idolatrous and heathen nations of the earth are declared, in the inspired volume, to be in a peculiar manner under the influence and power of the devil.

Each tribe has its national priest, or "intonga yakwomkulu," whose duty it is to protect the person of the Chief; to avert all national calamities from the tribe; and especially to make the army strong to fight and conquer all its enemies. The power to perform all these wonderful

things they profess to derive from the "imishologu," or ghosts of the dead, as before mentioned : they are, therefore, strictly speaking, Necromancers.

A great many rites and ceremonies are performed, and sacrifices offered, by the priest, when occasion requires. The latter are called "amadini." They are generally connected with the "shedding of blood," and are evidently of a propitiatory nature.

The people pay great deference to all the priests, but they yield unbounded obedience to the national priest ; and to disregard his injunctions, and to neglect, or to refuse to conform to all the rites and ceremonies he may think proper to institute in his *official capacity*, as the *national priest*, would be considered a capital offence ; and the individual guilty of it would be denounced as a *sorcerer*, and would probably be put to death on the spot, by the special order of the Chief, without even the form of a trial. For although Kafir law recognises no punishment but that of fine for *real crimes*, yet for *imaginary ones*, such as sorcery, &c., individuals are often put to death : and especially for refusing to conform to such national customs, rites, and ceremonies, connected with their system of superstition, as may be instituted, from time to time, by the national priest, for the purpose of strengthening the army, or averting national calamities, the guilty party seldom escapes death. The order for execution must, however, be issued by the Chief himself. It is then performed in a very summary, and often in a horribly cruel and barbarous manner. Their property is always confiscated to the Chief ; and generally the whole kraal to which the delinquent, or delin-

quents belong, is "eaten up." Priests are paid, when successful in curing the maladies, or removing the calamities for which their services were required ; otherwise not ; but as an "earnest" is always paid, and a beast generally slaughtered for their special benefit, before they commence operation, they get that much remuneration at all events.

The characteristic distinctions of a sacrifice are the following :—It must be offered by a priest, except in a few cases of ordinary domestic sacrifices, which may be performed by the head of the family. The blood must be caught in some kind of a vessel, and not spilled on the ground ; and the bones must be burned.

The ceremony of "ukwombela" is always performed, and while under the excitement ("ukuxentsa") created thereby, the priest professing to be inspired, declares that a certain beast, naming its colour, &c., must be slaughtered as a sacrifice. The beast, when slaughtered, is split down each side of the spine, and one side is taken possession of by the priest, and eaten by him and his family alone. The remainder is publicly eaten by all the people of the kraal, for whose benefit the sacrifice was made ; but none of it can be carried off the kraal, or eaten in private. Strangers, however, who happen to be present at the ceremony, may partake thereof. During the process of sacrificing, as well as afterwards, certain rites and charms are performed ; but the manner of performing them, as well as the nature of the charms used, are known only to the initiated.

In conclusion, I may remark that the system of pagan superstition found among the Kafirs, exists with perhaps

slight modifications among all the tribes of South Eastern Africa ; and is found perhaps in its most perfect and systematic form among the Fingoe tribes. Hence nearly all the more celebrated priests to be found even among the Kafirs, are Fingoes.

UKUKAFULA.

This is the great national sacrifice and ceremony performed, when the priest makes the army invulnerable. All the men of the tribe, or as many as can attend, are assembled at the "great place." The priest names the sacrificial beast, which is immediately caught and thrown down. The shoulder is then skinned and cut off while the wretched animal is still alive. The flesh is cut off the shoulder, so as to form a long strip, which is roasted on the coals of a fire prepared for the purpose, into which charms of a certain kind of wood, or roots, are thrown by the priest. The flesh, when roasted, is made to pass through the smoke of these charms ; after which, each man bites off one mouthful, and passes it on to the next. The priest then makes a number of incisions in different parts of their bodies, into which he inserts the powdered charcoal of the above mentioned charms.

All this while, the poor animal has been left to writhe in excruciating agony. It is now killed, and the flesh boiled, and publicly eaten on the spot, by all the men present. After which the bones are carefully burned. No female is allowed to partake of the flesh of this sacrifice.

After all the rites and ceremonies have been performed,

the army is put through a number of evolutions and exercises, and then disperses.

SACRIFICE TO THE LIGHTNING.

The Kafirs have strange notions respecting the lightning. They consider that it is governed by the "umshologu," or ghost, of the greatest and most renowned of their departed Chiefs; and who is emphatically styled the "inkosi"; but they are not at all clear as to *which* of their ancestors is intended by this designation. Hence they allow of no lamentation being made for a person killed by lightning; as they say that it would be a sign of disloyalty to lament for one whom the "inkosi" had sent for, and whose services he consequently needed; and it would cause him to punish them, by making the lightning again to descend and do them another injury.

The above are the original views of the Kafirs respecting lightning; but since they have heard of a supreme being from Europeans, they have so far modified them, as that many of them now believe that the lightning descends direct from "utixo," the term used to designate the God of the "white man," but to which term, however, they originally attached no other idea than that of the "umshologu," or ghost, of their primordial Chief, or original primogenitor. They however still rigidly adhere to all the rites connected with sacrificing to the "inkosi" of the lightning, when it strikes a kraal, man, or beast, &c., whatever idea they may attach to the term "inkosi." When the lightning kills either man, or animal, a priest is sent for immediately, who, in the first place, ties a number of charms round the necks

of every individual belonging to the kraal, in order that they may have power to dig the grave,—for animals, as well as human beings, are always buried when struck by lightning, and the flesh is never eaten.

After the body, or carcase, as the case may be, has been buried, the sacrificial beast is killed; a fire is then kindled, in which certain charms of wood, or roots, are burned to charcoal, and then ground to powder. The priest then makes incisions in various parts of the bodies of each person belonging to the kraal, and into which incisions he inserts a portion of the powdered charcoal; the remainder he puts into a quantity of sour milk, and gives each individual to drink thereof; and from the time the lightning strikes the kraal until this ceremony has been performed, the people thereof are obliged to abstain entirely from the use of milk. Their heads are then shaved. Should a house have been struck, it must be abandoned, together with every utensil belonging to it. Until all these rites have been performed, none of the people are allowed to leave their kraal; or to have any intercourse whatever with others; but when they have been performed, they are pronounced clean, and may again associate with their neighbours. Nevertheless, certain restrictions are continued for several months; such as, that none of the live stock, and a few other things belonging to the kraal, can be allowed to pass into other hands, either by the way of war, gift, or sale. The priest who officiates at the ceremonies connected with this custom, is always well paid, generally receiving for his services, from six to ten head of cattle.

SPECIAL SACRIFICES TO THE IMISHOLOGU. .

Sometimes when a person is sick, or some other misfortune has happened to him, or when some calamity has befallen a kraal, the priest declares the cause of such sickness, or other calamity, to be the "umshologu" of one of their ancestors, who has taken offence at their neglect, in not supplying him with a sufficient number of sacrifices, and that consequently he is hungry, &c. When this is the case, a special sacrifice is offered to appease the ghost. The spine of the sacrificial beast is carefully cut out, from the head to its termination, including the tail, and carefully deposited in a place appointed for its reception. The blood is caught in a vessel, and together with the caul or inside fat, conveyed to the hut of the sick person; or in case of some other calamity, to such place as the priest may appoint, and there left, sometimes for two or three days, for the gratification of the "umshologu's" appetite. After this the spine and other bones of the sacrificial beast, together with the inside fat, are carefully burned, and the blood is buried in the dry dung of the cattle fold.

On some extraordinary occasions a special sacrifice is offered to the "icanti," or water "umshologu," and which assumes the shape of a large snake. In this case, the beast is cut up, and thrown piece by piece into a deep hole in the river pointed out by the priest, together with the skin and everything belonging to it. None of the flesh of this sacrifice is allowed to be eaten, but the whole is consecrated to the imaginary being whom they wish to propitiate. This sacrifice is generally offered on behalf of a person in the

state of "ukutwasa," or when passing through the initiatory state of priesthood.

THE "UMHLAHLA" OR "SMELLING" OUT FOR WITCHCRAFT.

Kafirs are firm believers in sorcery or witchcraft; and they consider that all the sickness and other afflictions of life are occasioned thereby; and that were it not for the evil influence of the "amagqwira," none would die but in a good old age. This universal belief in witchcraft, has led to the almost entire neglect of the art of healing by medicines; and to cause them to trust wholly to the power of charms, incantations, "amadini," or sacrifices, &c. Hence their priests have little or no knowledge of the virtues of medicinal plants, and they trust entirely to such remedies as may be revealed to them by the "imishologu." And if, as is sometimes the case, they do make use of herbs, &c., they are always used in conjunction with charms and sacrifices, and to the efficacy of which their virtues are attributed. They have, however, a few very valuable medicinal plants among them; but the knowledge of these is as frequently found among other classes, as among the priests. When all ordinary charms, and other means, have failed to remove sickness, &c., an application is made to the Chief for permission to try the "umhlahlo," for no person can have the "umhlahlo" performed, without the express sanction of the Chief. When this has been obtained, the people of the kraal in question, together with their neighbours of the surrounding kraals, proceed in a body to the kraal of the priest whom they intend to employ. The people belonging to the priest's kraal, with those of the surrounding kraals, then

assemble. Two semi-circles are formed ; one, of the party of the kraal seeking assistance, and the other, of the adherents of the priest. These semi-circles are so ranged as nearly to meet at their points, thus forming an almost perfect circle ; leaving only just sufficient space between them, to admit the priest and his assistants.

The ceremony of “ukwombela” is now commenced, the hide drums are violently beaten, the bundles of assegais are struck together, accompanied by the well-known humming and clapping of hands by the women. Bye and bye, the priest rushes out of his hut, springs into the midst of the circle of human beings assembled, and commences jumping about in the most frantic manner, and performing all sorts of extraordinary gesticulations. This is called “ukuxentsa.”

The men now beat their drums, and strike their bundles of assegais together, more violently than ever ; and the women hum their exciting tunes, and clap their hands, in an increasingly agitated manner ; vociferating all the while for help, and demanding who has bewitched them ? This is continued until the priest is wrought up to the proper pitch of inspiration ; when he suddenly ceases, and retires to that part of the circle formed by his own adherents. He then names the persons who have bewitched the afflicted party or parties. On their names being pronounced, that part of the circle where they are sitting rises simultaneously, falls back, and leaves the devoted victims sitting alone. This is the exciting moment ; and all eyes are fixed upon them, while the priest describes their sorceries, and the enchantments used by them for their diabolical purposes.

A rush is then made upon them, and every article in the way of kaross, ornaments, &c., is torn from off their bodies. They are then given in charge to certain parties appointed for that purpose, and led away to their respective kraals, there to be tortured in the most barbarous manner, in order to make them "mbulula," or reveal the materials by which they performed their enchantments. In the bush country, where the tree ants are plentiful, their nests are sought for; the poor wretch is laid down, water thrown over his body, and the nests beaten to pieces on him. This irritates the ants, and causes them to bite furiously; they also creep into the nostrils, ears, eyes, mouth, &c., producing the most excruciating pain by their bites. Sometimes a large fire is made, and the poor wretch is tied up to a pole, so close to it, as literally to roast him alive. Large flat stones are also heated red hot, and placed on the groins, and applied to the soles of the feet, and other parts of the body.

Another mode of torture resorted to, is the binding of string so tight round the thumbs as to cause the most acute agony, and unless the poor creature does confess something, and produce some kind of "ubuti," or bewitching matter, he must eventually sink under the torture. When the person altogether refuses to confess, (and which is sometimes the case), and at the same time the people are anxious to save his life, the priest is sent for, who produces the "ubuti" for him; or assists him to find it, by refreshing his memory, as to its whereabouts; otherwise he is generally despatched without ceremony for his obstinacy. When the unfortunate victim has sufficiently satisfied his tormentors by his confessions, he is generally set at liberty. At this

stage of the proceedings, the Chief's "imisila," or sheriffs, make their appearance and demand the "isizi," and which is the same in number as for any other kind of homicide. The "isizi" is always paid by the person charged with witchcraft, even should the person supposed to have been bewitched recover.

Very frequently, however, the Chief acts in a despotic manner, and seizes the whole of his cattle; (this is always the case when he is a political victim); but this is not according to law; but a mere arbitrary act of power. If the person charged with witchcraft dies under the torture, or is wilfully killed without the sanction of the Chief, the "isizi" must be paid for his life also; at least, according to law, the Chief has the power to demand it, though he often foregoes his claim.

Persons charged with witchcraft are often put to death by the express command of the Chief; in which case he takes possession of the whole of his property, and frequently "eats up" the whole kraal to which he belongs. This is always the case when the "umhlahlo" is made use of as a political engine, to get rid of some influential but troublesome individual; for when once a person has been legally charged with this crime, it matters not how popular or respected he might have been before, he is at once avoided as the most noxious of human beings. The Chiefs therefore find this a very convenient and powerful state engine to support their power, and enable them to remove individuals whom they would otherwise find great difficulty in getting rid of.

After a person charged with witchcraft has satisfied all legal demands, and is set at liberty, he has the right of applying to a priest, who offers a sacrifice for him, and performs some other rites ; after which he is pronounced clean, and again becomes as honourable a member of society as though he had never been punished for witchcraft.

There is not the slightest doubt that the Kafirs do frequently attempt to bewitch each other ; and for which purpose they practise a great number of villanous tricks. They have also the knowledge of several vegetable poisons, and of which they make a very free use in getting rid of those they dislike ; and, as poisoning is included by them under the head of witchcraft, there is no wonder at their superstitious fears having invented some kind of scheme to detect and punish individuals, whom they believe to be guilty of these crimes.

But what a melancholy state of society this is, and how zealously ought all christian philanthropists to exert themselves to raise them from this state of heathen darkness and degradation !

“ UBULUNGA ” AND “ INGQITI. ”

These are the two great domestic superstitions, which are universally practised by the Kafirs as preventives, antidotes, and charms against all kinds of evils. The “ isiko lobulunga ” consists in tying the long hair drawn from the tail of a cow or ox round the neck of the individual, for whose benefit the rite is performed. Each family has certain cattle set apart for this purpose, and which are, to a certain extent, considered sacred ; they cannot for instance be sold

or given away ; nor even lent to a person not related by blood to the family to which they belong.

The age at which this rite is performed appears to be immaterial ; it is, however, generally performed on infants when they are about six months old. The father invites all his friends and neighbours, and for whom a feast is provided. He then proceeds to the cattle fold, selects a beast from among those set apart for this purpose, pulls a quantity of long hair from its tail, and presents it to the mother, who after twisting it into certain fanciful shapes, ties it round the child's neck. The "isiko lengqiti" consists in cutting off the first joint of one of the fingers, generally the little finger ; a cake of new cow dung is held under the child's hand, to catch the blood ; the part of the finger which is cut off, is also placed in the dung, and then the whole is plastered up in the top of the hut inside.

The above is the ordinary way of performing these rites. When however they have been, from neglect, or other cause, left unperformed, and sickness, or other misfortune, happens to the individual, a priest is sent for, who on ascertaining that the rite has been neglected, orders it to be performed in his presence ; in which case a beast is sacrificed, as an atonement for the neglect.

Some families consider the "ubulunga" as their family charm, others the "ingqiti," and others again, more superstitious than their neighbours, perform both.

When a female is sent to be married, she takes the beast with her which has been consecrated for her protection, and from the tail of which the "ubulunga," or long hair, was taken which is tied round her neck. This beast, together

with its increase, remains the property of the kraal from which she was married, and does not become the property of her husband.

UKUZILA.

Females are periodically considered unclean. At such times they abstain from the use of milk, and are not allowed to approach within a certain distance of their husband's sleeping place ; and some other trifling ceremonies must be attended to.

The time of the "ukuzila," or state of separation, is seven days.

This custom necessarily places a female in the undesirable predicament of being often obliged, in company, to explain the state she is in, in order to give a reason for her refusing to drink milk when offered to her ; and by thus being obliged to converse habitually, and in public, on this indecent subject, Kafir females have lost all idea of shame in connection with it.

UKUQABA.

This is the ceremony of the purification of women after childbirth. A woman is not allowed to be seen out of her hut, or to be visited by her husband or other male friends, during her state of "ukufukama," which continues for a full month after her confinement, and during which time she also "zilas," or abstains from the use of milk. At the expiration of the month, her friends and neighbours are invited, and under ordinary circumstances the sacrificial beast is killed by the husband, without the assistance of a priest.

A feast ensues, after which, each of her female friends presents her with a few loose beads, which she strings on to the "ubulunga" or other charms which she ordinarily wears, and ties them round her neck. She is then smeared with fat and red clay, and thus her purification is complete ; but she does not cohabit with her husband during the whole time she is suckling.

UKUHLONIPA.

This is a very singular custom ; and, in its nature and tendencies, presents insuperable difficulties to the introduction of civilised habits into the domestic circle ; and especially to the exercise of those kindly offices which christianity inculcates.

By this strange custom, a daughter-in-law is required to "hlonipa" her father-in-law, and all her husband's male relations in the ascending line ; that is, to be cut off from all intercourse with them. She is not allowed to pronounce their names, even mentally ; and whenever the emphatic syllable of either of their names occurs in any other word, she must avoid it, by either substituting an entirely new word, or at least, another syllable in its place. Hence this custom has given rise to an almost distinct language among the women. The emphatic syllable which she must not pronounce, is that which immediately follows the prefix of the proper name.

She is not allowed to enjoy their company, nor to be in the same hut with them ; nor is she supposed even to look at them. Thus she is debarred from performing all those kindly offices towards the elders of her husband's family,

which nature dictates, and christianity commands. She may however associate with her husband's relations in the collateral line of relationship.

The same custom forbids all strange females, or those related only by *affinity* to the owner of the kraal, from entering the cattle fold, or even from walking on those parts of the village site, where the cattle are accustomed to stand and lie down, and which is called the "inkundhla." Hence they have to make circuitous paths from one hut to another, round the back of the huts, in order to avoid crossing the "inkundhla." These women's tracks may be seen at every kraal. Females related by *blood* to the owner of the kraal may, however, walk on the "inkundhla," and even enter the cattle fold.

Females not related by blood to the owner thereof, are also forbidden by this custom to touch the milk sack; and they would rather die of hunger, than pour milk therefrom.

This custom places the son-in-law also under certain restrictions towards his mother-in-law. He cannot enjoy her society, or remain in the same hut with her; nor can he pronounce her name.

He may however pronounce other words, although they may contain the emphatic syllable of her name; nor does this custom require that the son-in-law should avoid the society of any of his mother-in-law's relations, even in the ascending line.

The daughter-in-law must to a certain extent "hlonipa" her mother-in-law also; for instance, she cannot uncover her head, nor any other part of her body which is usually kept covered, in her presence.

If a female *wilfully* commits breaches of this custom, she loses caste ; and should any misfortunes befall the kraal on which she resides, and a priest be sent for, he would most probably fix upon her as the cause thereof, and she would then be punished as a witch. The dread of this, together with their own superstitious fears of incurring the displeasure of the "imishologu," are an effectual preventive to any *wilful* breaches of this custom. I say *wilful* breaches, because, until practice has made them perfect, young married women often commit mistakes with regard to this custom, which are of course overlooked.

CIRCUMCISION.

This national rite is performed at the age of puberty, and partakes partly of a civil, and partly of a religious character. As a civil rite, it introduces boys into the state of manhood ; and as a religious rite, it imposes upon them the responsibility of conforming to all the rites and ceremonies of their system of superstition.

The superstitious ceremonies practised in connection with this rite, also point it out as being part and parcel of that system, from whence such superstitious notions proceed ; as does also the fact, that should any thing of an untoward nature happen during the course of these initiatory rites, a priest would immediately be applied to, who would as a matter of course offer sacrifices to the "imishologu," in order to obtain a removal of such "isixake," or evil influence. Circumcision is generally performed about the time of the new year. A number of neighbouring kraals club together, and arrange that the boys thereof shall be

circumcised together. A hut is erected for that purpose about half a mile from the most central kraal. To this hut the boys are taken, having been placed in charge of a person appointed to that office, and who is called the "inkankata," and under whose charge they continue during the whole time of their initiation ; and which state of initiation is called "ubukweta," the boys themselves being termed "abakweta." Here their foreskins are cut off, each boy taking his foreskin to a certain spot, where he hides it under ground. Healing plants are then applied, together with certain charms ; and which are removed and fresh ones applied from time to time ; especial care being taken to preserve the whole of these bandages, to be burned at the appointed time, in order that they may not fall into the hands of sorcerers or witches, who might make use of them as "ubuti" to bewitch the boys. Cattle are then slaughtered by the parents, and the boys are plentifully supplied with flesh meat : a good deal of dancing also ensues at this stage of the proceedings. During the whole time of their initiation, which generally lasts until the Kafir corn crops are reaped, the boys form an entirely separate community ; they sleep in one hut, and no others are allowed to eat with them. As soon as the soreness occasioned by the act of circumcision has healed, they are, as it were, let loose on society, and exempted from nearly all restraints of law, so that even should they steal and slaughter their neighbours' cattle, they would not be punished ; and they have the special privilege of seizing by force—if force be necessary—every unmarried woman they choose, for the purpose of gratifying their passions ; and yet I have heard it contended,

that circumcision, as it exists among the Kafirs, is a harmless custom ; whereas the fact is, that it is while passing through this initiatory state into manhood, that virtue is polluted and destroyed, while still, as it were, in a state of embryo.

Another heathenish custom connected with this rite is the “ukutshila,” and which consists in attiring themselves with the leaves of the wild date in the most fantastic manner ; and thus attired, they visit each of the kraals to which they belong, in rotation, for the purpose of dancing. These “ukutshila” dances are the most lewd and licentious which can be imagined. The women act a prominent part in them, and endeavour to excite the passions of the novices, by performing all sorts of obscene gesticulations.

After all these “works of darkness” have been completed, the “abakweta” are taken to the river to be washed—for during the whole time of their separation they smear themselves all over with white clay. The whole of the men of the kraals to which they belong being assembled, the boys are chased by them, and obliged to run as fast as possible all the way to the river. After having sufficiently performed their ablutions, they return to their hut, where every thing connected with their “ubukweta,” including their karosses, bandages, &c., is collected in the hut, and the whole is burned. The boys, having been smeared with fat and red clay, are presented with new karosses. Then they proceed in a body to the kraal which has the charge of them ; all of them being exceedingly careful not to look back upon the burning hut, lest some supernatural evil should befall them ; and in order more effectually to avoid this they are careful to cover their heads all over with their karosses.

The next day all the men assemble in the cattle fold. Cattle are slaughtered, and a grand feast ensues, at which the ceremonies of "ukuyala" and "ukusoka" are performed. The first consists in discourses or lectures by the men to the novices on their duties as members of society; they having now entered into the important state of manhood. These duties, they are told, consist in obeying their Chief; defending their tribe from all enemies; and in conforming to all the customs, and fulfilling all the rites and ceremonies, of their forefathers. They are also exhorted to be careful to provide for their parents, and all others committed to their charge; and to exercise a spirit of liberality towards all their neighbours and friends. The "ukusoka" consists in presents being made to them, by the men assembled, of cattle, assegais, &c., in order to give them a start in life. They are then pronounced to be *men*, and are admitted into all the privileges of that important state. From the above outline it will be seen that nothing can be more barbarous and degrading than the customs and ceremonies connected with this rite, as it is found to exist among the Kafirs; and yet, I fear, a very long time will elapse ere it will be altogether abandoned; as an uncircumcised male, though as old as Methuselah, would still be considered but a *boy* in the estimation of Kafir society. And no father would ever think of sending his daughter to be married to such a person; and if he did so, the girl would utterly refuse to become his wife. Every endeavour ought, however, to be made to do away with, at least, all the objectionable and heathenish parts of the rite.

INTONJANE.

This female custom is analagous to circumcision among the men, in as far as it is the initiatory rite by which girls are introduced into womanhood. It is performed at the same time of life, viz. : that of puberty ; and the remarks made under the head of circumcision, as to its being partly of a civil, and partly of a superstitious character, are equally applicable to this rite. When a girl arrives at the state of puberty, the fact is announced to the whole kraal. All the women immediately assemble, and rush to the cattle, and which they drive into the cattle fold, (regardless of all laws respecting females not being allowed to enter the cattle fold, &c., for this is a privileged day among the women), seize the finest beast among them, and which, if not prevented, they would immediately slaughter. But here a compromise generally takes place between them and the men, who redeem the one they have caught with another of less value. Dancing and feasting now take place, to which all the people of the surrounding kraals are invited ; and all others, though not invited, may attend.

The girl in question is placed in a separate hut, and none but females are allowed to see her ; and during the time of her separation, which lasts from seven to ten days, neither she, nor any of her female companions, are allowed the use of milk. If the girl is of a respectable family, as many as from seven to ten head of cattle are slaughtered at this festival ; during which time a fearful amount of immorality is committed. On these occasions, it is customary for all girls who have arrived at the age of puberty to choose paramours ;

and if they refuse to do so—which however is seldom the case—men are selected for them by the elder women, and with whom they are forced to cohabit as long as the festival lasts. Thus these poor creatures are degraded and polluted at the very threshold of womanhood, and every spark of virtuous feeling annihilated.

When the time of her separation has expired, the girl in question, accompanied by her female companions, proceeds in the dusk of the evening to a convenient spot, a short distance from the kraal, where she carefully hides underground the fork with which she has been accustomed to eat her food during the time of her separation, together with some other articles not necessary to mention. The next morning she is pronounced to be an “intombi”; that is, she has entered into the state of womanhood, and is considered marriageable.

CUSTOMS CONNECTED WITH BURYING AND MOURNING FOR THE DEAD.

Friendless persons among the Kafirs are seldom buried. They are generally carried away before they are dead, and deposited in some fissure of a bank or rock, and left to their fate; and it sometimes happens that those thus cast away as dead recover and return to their kraals. They have a great repugnance to a person's dying inside the hut; and even respectable Kafirs are generally carried outside to expire. On the death of a person who has friends, great and loud lamentations and screaming are always made by the women, but the men manifest their sorrow by sitting in profound silence. These lamentations do not generally last for more

than an hour. The body is always placed in a sitting posture; and in filling up the grave, stones are carefully built up round the face, so as to prevent the earth from falling against it. When the corpse is placed in the grave, the relations often make use of some such exclamations as the following: "Look upon us from the place whither you are gone;" "Take care of us;" "Cause us to prosper," &c.

If it be a man, his favourite assegai is generally placed in the grave with him, as well as his karosses, &c. After burial, those who assisted in the ceremony, as well as his other relations residing on the kraal, perform certain ablutions, and shave their heads. If it be the headman of the kraal who has died, all belonging to the kraal perform these ablutions and shave their heads. If the deceased was a married man, his wives fly to the mountains immediately on his death being announced, and there remain for several days; only coming to the kraal after dark, to obtain food and to sleep, and they are off again to the mountains with the first dawn of day.

Sometimes, however, they remain altogether in the mountains, night as well as day. During the first three or four days of mourning, they all abstain from the use of milk.

A priest is then sent for, who offers a sacrifice to the "imishologu," after which they drink milk as usual. The deceased's hut, if he had one, is always forsaken; and if he was the owner of the village or kraal, that is forsaken; and the cattle fold, together with all the huts belonging to the deceased's establishment, are allowed to decay and moulder

away. The name of such deserted hut or kraal is called the "idhlaka." It is sacredly consecrated to the dead; and for any of the materials thereof to be used for fuel, or for any other purpose, by his surviving relatives, would be considered as great a crime as witchcraft. During the days of mourning, which seldom extend beyond the period of one month, no cattle, &c., belonging to the kraal, are allowed to depart. As soon as it can be arranged, new karosses are provided for the wives of the deceased, who burn the old ones, smear with fat and red clay, and then the days of their mourning are ended.

In case of the death of a Chief, "watchers" are appointed to protect the grave for a considerable time. These persons have a number of cattle given them, belonging to the "great place," and which cattle are ever after considered sacred, and are called "the cattle of the Chief's grave." These cattle cannot be seized for any crime of which their owners may be guilty; and, in fact, they are still considered as the property of the departed Chief. Indeed, the grave "watchers" themselves are for a long time considered as very privileged persons, and are not generally punished for trifling misdemeanors.

RAIN MAKERS.

This is another of the heathenish vanities in which the benighted Kafirs put their trust. They firmly believe that some of their priests have the power to cause it to rain; and that were it not for the baneful and malicious influence of the "amagqwira," or sorcerers, this blessing would uniformly follow the rites and ceremonies performed in order to its

attainment. The power of causing rain is a peculiar gift, and is only enjoyed by a very few persons, even among the priests themselves : seldom by more than one in a tribe.

In time of drought, the Chief sends a beast to the Rain maker to ask for rain. This beast is offered as a sacrifice by the Rain maker ; and unless something of an untoward nature arises to prevent, it is expected that it will rain about the day on which the bones of the sacrificial beast are burned, which is generally done on the third day after it is killed. If it does not rain within a reasonable time, the Chief sends to know the reason ; and the Rain maker is never at a loss for excuses, such as that the beast sent by the Chief was not acceptable to the "umshologu ;" that another of a different colour must be sent, &c. When all his excuses of an ordinary nature have been exhausted, and the drought still continues he does not hesitate to declare that sorcerers are exerting their evil influence to prevent the rain from falling ; and recommends the Chief to have the "umhlahlo," or ceremony of "smelling out" performed, in order to discover them. Sometimes the Rain maker himself names them, in which case the "umhlahlo" is dispensed with. Persons charged with this species of witchcraft never escape death, unless they manage to fly to another tribe. The manner of putting them to death is uniform ; they are always tied neck and heels, and thrown into a deep hole of water in the nearest river ; and their property is confiscated to the Chief.

Rain makers seldom die a natural death. They are generally, sooner or later, caught in the net of their own machinations, and in case of long continued drought, and

when all their tricks have failed to bring rain, they are often, in a very unceremonious manner, tied neck and heels, and thrown into a hole of water, by order of the Chief. Indeed this remark is applicable to all priests; these bloody and deceitful men seldom live out half their days. This is especially the case with the "intonga yakwomkulu," or national priest. He seldom escapes death, should the army, which he is supposed to make invulnerable, meet with a signal defeat.

CONCLUDING REMARKS.

The foregoing are the principal customs and rites connected with, what I choose to call, the *Religion* of the Kafir tribes. It would be an endless task to follow them through all their windings and ramifications, or to detail all the trifling and absurd ceremonies connected therewith. The outline given is, I think, sufficient to show their pernicious nature, and to prove that they are opposed to all advancement in civilization, utterly at variance with the spirit of christianity, and altogether incompatible with that undivided trust in Divine providence, which God requires from His creatures. The rites and ceremonies of this system of superstition, it must be remembered, are not matters of indifference, which may be performed or neglected at the will of the individual, but they are the *trust and confidence* of the Kafir; and, in his estimation, his life and well-being depend on their due performance; and were he to despise or neglect them, he would, as I have elsewhere stated, *lose caste*, and be avoided by his friends and neighbours as a suspicious character, who must be trusting to the arts and powers of witch-

craft, or he would never be guilty of such a heinous crime. And should any misfortune befall the kraal, and a priest be applied to, to perform the "umhlahlo," or "smelling out," such suspicious person would, no doubt, be pointed out by the priest as the cause thereof, and be punished as a *wizard*. Another thing which effectually prevents them from committing any infractions of these rites and ceremonies, is the superstitious fear which they themselves have of incurring the displeasure of the "imishologu" by so doing, and consequently that some supernatural evils would befall them.

There is another point to which I would advert before I conclude, and on which I think it of great importance that correct views should be entertained; and this is, that the political and religious governments of the Kafir tribes are so intimately connected that the one cannot be overturned without the other;—they must stand or fall together. The priests support the Chiefs, and the Chiefs support the priests. And very well do they understand that, if the one be destroyed the craft of the other would be in imminent danger. In fact, with the exception of just their civil and criminal laws, the two departments may be considered but one vast system of paganism, and which must be entirely overthrown before any extensive good can be effected amongst them. I think facts will bear me out in this view of the subject. For what is the present state of these people? The gospel has been preached to them for the last fifty years, and some attempts have been made towards civilising them; but the Kafirs, *nationally* considered, remain just as they ever were; no visible difference can be

discerned. They are perfectly heathen now, as they were in the days of Van der Kemp.

It is true that individual Kafirs have been converted to christianity, and to a limited extent, civilised—nothing more. There has been no *national movement*; as a *nation* they continue in all respects as they were from the beginning. And so they ever will continue, so long as their political government continues to exist in its present pagan form.

Instance the case of the Chief Kama. He formally embraced christianity some thirty years ago; but he evidently started on his christian career with mistaken notions. Instead of embracing christianity as a *Chief*, and setting resolutely to work, in that capacity, to obtain a national abandonment of pagan superstition amongst his tribe, and a nominal profession of the faith which he himself had embraced, he evidently came to the conclusion that he would endeavour to serve the God of the *private individual merely*. And what is the consequence? His people, *as a tribe*, are as perfectly heathen as ever they were. Nay, if I know anything about the matter, they are more hardened and confirmed in their superstitions now than ever; and were Kama *now* to attempt any radical reformation amongst them, *as the Chief*, they would probably forsake him to a man. Nay, is it quite clear that he himself has not, on some occasions, been led to compromise his christian principles in order to appease his people, so as to retain his influence and command over them? If my views are correct, then all who have studied the subject must come to the conclusion that the present pagan form of political government found amongst the Kafir tribes is, as I have before stated, inimical

to all improvement, and that the sooner it is overthrown the better. How this will be accomplished is not for me to say. As so many untoward events have, however, happened in connection with our intercourse with these people, and so many clashing interests now exist; and as the Kafir tribes have now become so thoroughly imbued with hatred to the "white man," and appear so resolutely determined on his destruction, or to lose their political existence in the struggle; and above all, as they have so resolutely and so perseveringly refused to give to the Gospel even an attentive hearing; it seems to me that the way on which they themselves are so obstinately bent is the one which God will make use of to bring about this desirable object; and that the sword must first—not *exterminate* them, but—break them up as tribes, and destroy their political existence; after which, when thus set free from the shackles by which they they are bound, civilisation and christianity will no doubt make rapid progress among them; for they are a noble race, nowise deficient in mental capacity, and well worthy of all the labour and expense which the Imperial Government is bestowing upon them, and whose benevolent measures, our excellent and philanthropic Governor is so energetically carrying out.

(Signed)

J. C. WARNER,

TAMBOOKIE AGENT.

IV. MR. BROWNLEE'S NOTES.

1. CRIMES AGAINST THE PERSON.

MURDER PREMEDITATED.

Punished by fine, which is generally fixed at the same rate under whatever circumstances the murder may have been committed. About forty years since it was lawful to put a man to death for the act of adultery, when taken in the act ; but Gaika abolished this law, and ever since, bloodshed, in a case of this nature, is punished as murder. The law makes no distinction between a murder from malice, or forethought, or from one committed on the impulse of the moment, or in revenge for the blood of a relative.

A man is punished for taking the law into his own hands ; and in no case is he justified in doing so, even in a case of retaliation.

There is this to be observed, that the above remarks refer to people of one tribe ; but if the case were between people of different tribes, and the injured person obtained no redress, he would retaliate on any one of the other tribe who came within his power, and in this would be supported by his Chief, until redress was obtained ; but there does not appear to be any law to sanction this custom.

ACCIDENTAL HOMICIDE.

The law acquits the homicide, but the Chief not always.

JUSTIFIABLE HOMICIDE.

As in the above case.—A man is fined for murder if he kills an adulterer or adulteress in the act, although he be the husband of the adulteress.

ASSAULT—FACTION FIGHTS.

Assault is punished by fine, varying from one to five head of cattle, according to the nature of the injury, or the rank of the person injured. Fine goes to Chief.

In a faction fight, if blood is shed, each man concerned may be fined one head of cattle, which goes to the Chief.

ADULTERY.

Fine of from one to ten head of cattle among private persons. If an adultery is committed with the wife of a Chief, the fine is higher. The fine goes to the husband. The fine is heavier, if the adulterer is uncircumcised, and heavier still, if undergoing the rites attendant on circumcision.

If a woman procure abortion, with or without the will of her husband, he is fined; likewise the doctor who caused the abortion. Putting to death the child after birth is punishable as murder, the fine in both cases going to the Chief.

It is customary for Chiefs to procure abortion, or to cause the death of supposititious children.

RAPE.

Heavy fine, but no fixed number of cattle. If committed on a married woman, fine goes to husband; if on an unmarried female, to her parents or guardians; though a portion is generally given to the Chief.

SEDUCTION OF VIRGINS.

Fine of from three to four head of cattle to the parents of the virgin,

In the three preceding cases, the fine is heavier where pregnancy ensues.

FORNICATION, AS WITH AN IDIKAZI.

No fine, except pregnancy is the result; when one head of cattle is paid, and the father retains the child in this as in the foregoing case.

UNNATURAL CRIMES.

A fine of from five to ten head of cattle; but I have never heard of a case.

2. CRIMES AGAINST PROPERTY.

THEFT.

Theft is punished by fine, amounting from five to ten head of cattle for one, when the stolen property is not recovered; when recovered, a lesser fine is imposed. In this, as in all cases, the amount of fine is fixed according to the rank of the person against whom the offence is committed,

confiscation of property being the general punishment imposed for offences against Chiefs. The fine is paid to owner of stolen property.

No case can be brought against a Chief for theft, except it be committed on the property of a person of another tribe. Then the Chief of the injured person may take up the case as his own.

The children of Chiefs are permitted to steal from people of their own tribe, and no case can be brought against them. Should they be taken in the act, and the injured person should beat them, his property may be confiscated for assaulting a Chief.

In Tyali's tribe, there are a number of offshoots of the Rarabe family, bearing the name but not the influence of Chiefs. Among these were Tihla, Vinqo, Sani, and ————. Before the death of the Chief Tyali, the young sons of these petty Chiefs stole cattle and goats, and robbed gardens to such an extent that a remonstrance was brought before Tyali against the constant aggressions of these boys, against whom no proceedings could be instituted.

Tyali decided that in his tribe, for the future, the sons of petty Chiefs should be amenable to the same laws as private individuals, and that only the family of the paramount Chief should be free from punishment.

WILFUL INJURY TO PROPERTY.

Punishable by a fine fully covering the injury.

ACCIDENTAL INJURY TO PROPERTY.

No penalty.—Should a man intentionally set fire to grass and thereby cause damage to crops or huts, he is liable for

the damage ; but he is not held liable for a purely accidental destruction of property.

TRESPASS ON GRAZING AND CULTIVATED LAND BY CATTLE.

There is no trespass on grazing land ; neither does the Kafir law impose damages for trespass on cultivated lands ; but there have been a few cases lately in which injured persons have received damages for injury to their gardens by neighbours' cattle. The reason assigned for the law is, that all having cattle and gardens, all are alike liable to trespass, or to be trespassed on : things being thus equal law-suits are of no avail.

Should the owner of the garden beat or ill-use trespassing cattle, their owners may obtain damages.

TRESPASS BY SOWING FALLOW LAND FORMERLY BROUGHT UNDER CULTIVATION BY ANOTHER.

No penalty.—A man has a right to the land while he occupies it. When he leaves, though with the intent to return, another may cultivate during his absence. On his return, he may eject the second occupier, but not until his crop is reaped.

3. LAWS RELATING TO SOCIAL STATE, &c.

MARRIAGE.

Marriage is contracted by the payment of cattle to the parent or guardians of the female, the number paid being regulated by the rank or beauty of the woman.

Generally, after the birth of the first child, an additional demand is made, and if not complied with, the woman is usually induced to return to her parents, where she remains until the husband sends the cattle demanded.

It may be decided by a chief that the cattle paid are enough ; but he does not compel the parents to give up their daughter. Should the parents refuse to allow the daughter to return until the demand is complied with, and the husband as obstinately refuse to comply with the demand of the parents, the cancelling of the marriage may be the result.

Should the woman leave her husband before bearing children to him, and refuse to return, he may recover the cattle paid for her.

Should a man repudiate his wife, and show cause for doing so, he may recover his cattle, if she have borne him no children ; but should it be shown that the dissolution of the marriage was caused by misconduct on the part of the husband, it may be decided that he recover none of his cattle ; or, in some cases, it may be adjudged that a portion of the cattle be restored to him ; but misconduct on the part of the husband is seldom acknowledged by Kafir law.

Should a husband die before his wife bears children to him, the wife returns to her relatives, who may again marry her, and the heirs of the former husband recover the cattle given for her.

If only one child should have been borne, and the mother is still young, and likely to marry well, a portion of the cattle may be restored to the husband or his heirs ; and in all cases the children remain with the husband or his

heirs, except the cattle paid have been restored in full. This is called extinguishing the house, or dissolving the marriage.

INCESTUOUS MARRIAGES.

Incestuous marriages are dissolved, and a heavy penalty inflicted on the man. Any relationship which may be traced to whatever distance, is considered within the bounds of consanguinity; and intercourse is punished, whether it be by marriage, or by carnal connection without marriage.

To marry two sisters is not considered incestuous; but to marry the descendants of a man's ancestors is considered incest.—Fine paid to Chief.

DIVORCE.

There is no legal process for obtaining a divorce. A man may repudiate his wife for barrenness, for adultery, or simply because he dislikes her. A man may also repudiate his wife for taking milk out of the milk-sack. It is not necessary to obtain the sanction of the Chief. A wife often leaves her husband on the ground of ill-usage, dislike, or jealousy; and if a reconciliation cannot be brought about, the husband can claim his cattle in the same way as the heirs of a deceased husband recover from the relatives of the widow. The children all remain with the father. According to law, the cattle and their progeny are recoverable; but it seldom happens that more than the number originally given are accounted for.

INHERITANCE.

The son of the great wife inherits the property of the father, though he may be the youngest of the family. During

the lifetime of the father, he apportions part of his property to the right-hand house. This property is inherited by the right-hand son. Should the father be a wealthy man, he may give a portion to the eldest sons of his other wives, but unless he does so, they have no claim after his death, the bulk of the property being inherited by the great son, and the right-hand son inheriting the portion attached to his mother's house during the lifetime of his father. Should an undue preference have been shown to the minor sons, the son of the great house may recover the property after his father's death.

Should a man have two or more wives, and die without having named the great and minor wives, his brother or near relatives may fix the great house, and the son of this house inherits all the property. Should the relatives not be able to arrange this point, it is settled by the Chief.

When a man dies without issue, his brothers inherit his property; if he has no brother, the property goes to the Chief. A daughter, or her issue, never inherits property.

Property is not inherited by will, but according to the law above quoted.

GUARDIANSHIP.

The uncles, or nearest relatives of the father, are the guardians of minor children; but it sometimes happens that when the mother goes to her relatives, the children accompany her, and if the father's relatives approve of it, the mother and her relatives may be guardians to the minor children. Should a guardian abuse his trust, either by ill-using the children, or squandering their property, the Chief

appoints other guardians, who sometimes are no way related to the children.

If an orphan girl is left destitute, and her friends, from poverty or scarcity of food, cannot provide for her, the Chief takes and brings her up. At her marriage, all the cattle are retained by the Chief. But should the orphan girl be brought up by the relatives of the father, they get all the cattle paid.

POWER OF HUSBAND OVER WIFE.

A husband may beat his wife for misconduct, but if he should strike out her eye or a tooth, or otherwise maim her, he is fined at the discretion of the Chief. If he puts her to death, he is punished as a murderer.

POWER OF PARENTS OVER CHILDREN.

A parent is liable for all the misdeeds of his children, as if committed by himself. Should a son, however, become an infamously bad character, and his father have often paid for his misdeeds, his father may obtain an outlawry against him ; and if, after this, he wholly casts off the son, he is no longer liable for his actions ; and should he be killed in the perpetration of any misdeed, the person who killed him is held guiltless of murder. An outlawed man is designated a porcupine or wolf.

LIABILITY OF RELATIVES FOR MISDEEDS OF RELATIONS.

Near relatives are called on to pay any fines for which their relatives are liable, and which they are unable to pay. In cases of theft, however, the relatives are not so much looked to for payment, as those who may have been par-

takers with the thief, or to whose kraal the stolen property may have been taken by him ; and in case these are not able to satisfy the demands of justice, the relatives are called on to pay.

DISOBEDIENCE OF ORDERS OF CHIEF.

A fine, varying according to the circumstances of the case, is inflicted on the party or parties guilty of this.

REFUSAL TO FOLLOW SPOOR.

When a spoor is traced to any locality, and the people of that locality refuse to trace it, they are held responsible, and must make restitution.

LAWS RELATIVE TO REFUGEES.

There is no law ; but the custom is that every Chief receives and protects whoever comes to him, except he is guilty of some offence for which he has not yet made restitution ; in which case, a compromise is usually made with the Chief from whom the man has fled, the man becoming a subject of the Chief to whom he fled. This custom has greatly kept in check any arbitrary and oppressive conduct which the Chiefs might have felt disposed to exercise towards their people.

PRIVILEGES OF CHIEFS.

Principal Chiefs and their sons are not liable for any action they may commit ; but minor Chiefs and their sons may be tried for offences in the same way as private individuals, though there are few Chiefs in Kafirland who will give a fair decision in a suit between another Chief and a private individual.

LAWS OF USE AND CULTURE OF LAND.

Lands are not sold or permanently alienated, but any man may occupy an unoccupied piece of land in his tribe, and so long as he occupies and cultivates it, no one, except the Chief, can interfere with his right. Should the occupier quit, and another take possession, the first occupier may eject him, if he wishes to occupy the land, even after the lapse of years.

A Chief may eject any of his people, taking their kraals, huts, cornfields, and corn in the pits, if required for his own use; or he may eject for the Chief of another tribe. But these cases seldom take place.

An individual coming into another tribe, obtains permission to settle from the head of the kraal in which he settles; the head of the kraal obtains permission from the Councillor or petty Chief in whose location he settles: a petty Chief, with kraals under him, obtains the sanction of the Chief of the tribe.

FALSE ACCUSERS, &c.

Any one bringing a false charge in legal form against another, as well as originators and spreaders of a public libel or scandal, render themselves liable to an action at law, and damages may be recovered.

4. LAWS RELATIVE TO RELIGION AND OTHER CUSTOMS.

INFRINGEMENT OF SEPARATION DURING CIRCUMCISION RITES.

No fine imposed.—The men intrusted with the care of the youths during separation, may inflict corporal punishment in case of the infraction of any rule.

SEPARATION OF RELATIONS AND DWELLERS AT KRAAL
AFTER FATAL ILLNESS.

A husband is considered unclean for eight days after the death of his wife ; a wife for twelve or fourteen days after the death of her husband ; and until they been purified by the doctor, they are liable to be fined if they enter any kraal, the fine going to the Chief. None of the residents of a kraal, at which a person has died, may go to the kraal of a Chief for a few days after the death ; but all may go to the kraal of a common man, with the exception of the parents, or husband, or widows, who must first be separated and purified.

When the head of a kraal dies, all the inhabitants of the kraal are considered unclean for a few days.

TOUCHING OR BURYING THE DEAD.

Though the Kafirs have a great repugnance to touch a dead body, particularly when disease has been the cause of death, those who touch or bury the body are not considered unclean, and undergo no purification.

When lightning strikes a kraal, or an individual, or the property of any one, the inhabitants of the kraal are considered unclean, until a sacrifice has been offered, and purification has been performed, by a doctor. Should any one belonging to an unclean kraal, enter any other kraal during the period of uncleanness, a heavy penalty is imposed. After uncleanness by lightning takes place, the inhabitants of the kraal approach to a short distance of the nearest kraal, and by shouting announce what has taken place, for the information of the Chief, and inhabitants generally, none of whom are permitted to enter the kraal

during the separation of its inhabitants. Cattle struck by lightning are not eaten, and all animals struck must be buried by the inhabitants of the kraal. Lightning is considered as the direct operation of the great or supreme spirit. Any object or person struck is considered as having been directly appropriated to himself, and instead of being mourned or lamented over, is made, after the purification, a cause of dancing and rejoicing. The fines paid for the non-observance of the customs in connection with the striking of lightning, go to the Chief. The kraal is deserted, the huts are allowed to fall down, and the kraal may not be used for fuel, though a scarcity of wood may exist.

GRAVE WATCHERS.

The persons and property of the watchers at the grave of a Chief are considered inviolable, and they are not liable to actions so long as they are employed in watching the grave. They are selected from among councillors, and such men are appointed as may be relied on for faithfully discharging their duty. They may occasionally visit their own families during the day, but may not go to other kraals, and always sleep at the grave. There is no fine for infringing the rules, but the offenders are publicly reprimanded. Any person, whether consciously or unconsciously approaching the grave, may be plundered and beaten. The period of watching continues from one to two years.

WITCHCRAFT.

Witchcraft is supposed to be an influence for evil, possessed by one individual over another, or others. This

influence is said to be exercised through the instrumentality of evil spirits, enchantments, supernatural and natural animals, such as baboons, wolves, or owls. By the above agencies an influence is supposed to be exerted which may cause temporary, chronic, or fatal diseases, death or sickness among cattle, blight and disease among crops, and drought.

The punishment for a supposed wizard or witch, is always confiscation of property, and often death. When a woman is accused, the fine is paid by her family, and not by the husband or his family. The torture to which the accused are often subjected, is not considered as a part of their punishment, but is resorted to in order to cause the accused to confess their guilt, and to produce the charms. On the confession of guilt, and the production of any substance which may be named a charm, the victim is either at once liberated, or put to death by strangulation, or by being beaten with sticks, or is thrown over a precipice. The cattle taken for witchcraft are given to the Chief, by whose approval alone a case of witchcraft can be carried out.

FEES OF DOCTORS.

Doctors are not entitled to fees, except a cure is performed, or the patient relieved.

5. MISCELLANEOUS MATTERS.

POWERS OF A COUNCILLOR.

A councillor is simply an arbitrator. He may give his judgment or decision, and may fix the amount of price or damage, but he cannot enforce his decision; and in case

either of the litigants is dissatisfied, an appeal is made either to a higher councillor, or to the Chief.

DIFFERENCE OF PUNISHMENT.

There is no defined rule. Almost every offence against a Chief may be punished by confiscation of property. Some Chiefs exercise this power, but others do not.

GENERAL JUSTICE OF DECISIONS.

Though many cases of gross injustice occur, upon the whole it is the endeavour of the Chiefs to decide justly and in accordance with Kafir law. In carrying oppression and injustice to the extent which some Chiefs might desire, they are checked by the fact that their people would leave them, and obtain refuge with other Chiefs.

SWEARING (UKUFUNGA).

Ukufunga, or swearing is a mode of asseveration voluntarily and frequently made in the course of friendly and familiar conversation. A man is sometimes caused to swear in a law case, and his oath gives weight to his statement only inasmuch as he may be fined for taking a false oath. But as punishment for this offence is uncertain, and false swearers are not always punished, false oaths are not uncommon.

CASES OF APPEAL.

No Chief, except Khili, demands a fee in cases not involving fine or eating up; but he causes the person in whose favour the case is decided, to pay the costs.

APPROACHING PLACE OF CHIEF.

In former times it was an offence against a Chief for a man to approach the Chief's kraal with his head covered by his kaross or blanket, and a fine was imposed for such offence; but Sandili has annulled the custom in his tribe.

BURNING GATE-POSTS.

To burn the gate-posts of the kraal of another, is an actionable offence, and heavy damages may be obtained by the owner of the kraal.

EMPLOYMENT OF DOCTORS.

In all cases of serious illness a doctor must be employed. Should death ensue, and a doctor not have been called, the person whose duty it was to have done so, is liable to a fine, paid to the Chief.

DEATH REPORTED TO CHIEF.

In all cases of death a report must at once be made to the Chief; otherwise a fine of from one to five head of cattle is imposed by the Chief.

UNCLEANNES AFTER CHILD-BIRTH.

Formerly a woman was not seen by her husband for about a month after the birth of a child, and the vessels which she used for food during this period were considered unclean, and cast away at the termination thereof. A husband may now see his wife and child two or three days after the birth, and the woman is now no longer regarded as unclean.

POPULATION RETURN—BRITISH KAFFRARIA, 1857.

Probable number of kraals, population, and fire arms, 1st January, 1857.								Probable number of kraals, population, &c., 31st Dec., 1857.							European population, exclusive of English Soldiers.																
MAGISTRATES.	LOCATIONS.	No of Kraals.	No. of Guns.	Men.	Women.	Children.	Total Souls.	No. of Kraals.	No. of Guns.	Men.	Women.	Children.	Total Souls.	Total Decrease of Souls.	Total Increase of Souls.	German Military Settlers.				Other European Inhabitants											
																Men.	Women.	Children.	Total.	Men.	Women.	Children.	Total.								
CAPT. REEVES	Kama	418	380	3416	3277	6245	12,938	238	374	2456	3159	3735	9350	3588							23	15	30	68							
MAJOR GAWLER	Umhala	855	538	4842	5253	12,619	22,714	218	433	1380	1976	3182	6538	16176							358	54	17	429	12	4	1	17			
---	Macomo	47	500	600	750	1650	3000	29	12	75	86	91	252	2748							210	17	3	230	2	1					
	Botman	35	400	500	600	900	2000	22	2	80	96	136	314	1686																	
MR. BROWNLEE	Sandili	750	1200	14,000		17,000	31,000	82	200	798	963	1957	3718	27,282							584	91	32	707			38				
	Xoxo	75	100	1400		1800	3200	9	15	146	91	352	589	2611																	
	Fynn	100	150	1720		1900	3620	14	21	105	111	433	649	2971																	
MR. AYLIF	Toise	68	no report	362	428	861	1651	83	180	505	630	1236	2371		720													1	1	4	6
MAJOR HAWKES	Siwani	309	377	1478	1747	2803	6023	271	468	1589	1971	3278	6828		810															32	
MR. VIGNE	Pato & Stock ..	846	1800	2235	2400	4261	8896	50		150	200	300	650	8246																	
	Jali	110	225	463	525	950	1938	96		319	420	591	1330	608																	
CAPT. FIELDING	Jan Tzatzoe ..	90	74	592	703	1086	2381	80	74	454	630	990	2074	307							81	6	3	90							
CPT. ROBERTSON	Oba	68		600	750	1275	2625	53	131	361	492	865	1718	907																	
	Anta	71		624	780	1326	2730	46	91	284	384	638	1306	1424																1	
Total of Locations		3842		50,045		54,676	104,721	1291	2001	8702	11,211	17,784	37,697	68,554	1530						1233	168	55	1456	38	21	35	165			
														1530																	
														67,024																	
MR. JENNINGS	East London							29			583	484	738	1805			328	44	21	393	182	63	70	315							
MR. TAYLOR	King Wm. Town							3	42	501	476	577	1554			99	8	7	114	370	254	460	1084								
COL. PINCKNEY	Crown Reserve							2225	1120	2499	2864	5767	11,130			138	13	5	156	81	37	110	228								
Grand Total		3842		50,045		55,676	104,721		3163	12,285	15,035	24,866	52,186	67,024		1798	233	88	2119	671	375	675	1792								

RECAPITULATION.	{	Total Native Population	52,186
		„ German Military Settlers	2,119
		„ Other European Inhabitants	1,792
		56,097	

FORT MURRAY,
1st January, 1858.

JOHN MACLEAN,
Chief Commissioner.

INFRINGEMENT OF CUSTOMS RELATING TO UNCLEANNESS
OF WOMEN.

During *menses*, women may not partake of milk. Should this custom be infringed, the husband may be fined from one to three head of cattle, which are to be paid to the Chief. Formerly the period of abstaining from milk, as it is termed, lasted for seven or eight days, but Eno recommended that it should last only during the flux, and his recommendation appears to have been generally adopted.

INDECENCY.

If a man wilfully exposes himself without the penis cover, he may be fined by the Chief.

Should a man maliciously, or otherwise, pull off the penis cover of another, a fine of from one to five head of cattle may be inflicted, payable to the complainant.

UNCLEANLINESS.

Should a man relieve nature in the kraal of another, he is fined, the fine going to the Chief.

UPUNDHLO.

Before the time of Gaika, a custom called *upundhlo* was in existence. By this custom the Chief and people from the great place occasionally went among the people, and forcibly carried off the virgins for the gratification of their sensual passions. This frequently gave rise to resistance and bloodshed, and Gaika finally abrogated the custom. From time to time immemorial it has been customary among the Kafirs, at the first appearance of menses with girls, to have feasting

and dancing, at which the girls of the neighbourhood voluntarily assembled to take part. They are distributed to men who lay with them, but who are fined if any carnal connection ensues.

About 1845 some young men in the Gaika district, at an occasion of this kind, sent about to the kraals in the neighbourhood to bring the girls who did not attend. Many of the old men were dissatisfied, saying it was an attempt to revive *upundhlo* ; but the young men pleaded that they were only following "isiko," or the custom, and Sandili sanctioned and approved of it ; since then the custom has been extensively followed.

Any man on these occasions seducing a virgin, or causing pregnancy, either marries her, or pays a fine to her relatives.

NOTE.—The foregoing laws and customs refer to the Gaika tribe. They may be modified or changed in other tribes, in laws not involving the rights of individuals, but which refer to offences termed "sins" against the Chief or State, and which it is at the Chief's option either to pass over, to punish lightly, or to visit with heavy penalties.

It is also in the power of the Chief wholly to suspend the operation of these laws in his tribe, though they may be revived by his successor.

(Signed)

CHARLES BROWNLEE,

GAIKA COMMISSIONER.

V. CHIEFS IN BRITISH KAFFRARIA.

JANUARY 1855.

PATO.

Pato is the most powerful and influential Chief of the Hlambi district, and is paramount Chief of the Amagquukwebi tribe. He took no part in the war of 1835. In the war of 1846 he joined the Gaikas. His resistance to our troops was most obstinate, and he was the last Chief to sue for peace. Strengthened and supported by his brother Kobi, Pato took no part in the war of 1851, but rendered great service to us by keeping open our communication with East London, and furnishing escorts for our wagon trains, during the whole of that protracted war. Pato has great influence in his tribe, and is feared and respected by his people. His age is about 58. Pato receives a subsidy of £60 per annum.

KAMA.

Kama, the brother of Pato, who for many years has made a most consistent and exemplary profession of Christianity, is aged about 50. In consequence of some misunderstanding with his brother, Kama left Kafirland and settled in Tambookieland. In consideration of his services during the war of 1846, a location was granted to him near to Shiloh

on lands from which the Tambookies had been expelled. During the last war he again rendered most valuable service at Whittlesea, and on account of his faithfulness, Sir G. Cathcart granted him a location on a portion of the forfeited Gaika country. Kama receives a subsidy of £40 per annum, and his son Samuel £20 per annum, in consideration of faithful service during the late rebellion.

UMHALA.

Umhala, the second Chief in the Hlambi district, is the second or third son in rank of Hlambi, but is the most powerful of his father's sons, having by intrigues obtained the disgrace of his brother Jan, on a charge of witchcraft, Jan having disputed the supremacy with Umhala. After the disgrace of Jan, his people attached themselves to Umhala, and many of Umkai's people also adhere to him. Umhala took an active part in the war of 1835; and in the war of 1846, at the Gwanga, he lost many of his best warriors, and some of his most influential men, among whom was Umxamli, his brother and chief councillor. This severe loss induced the old councillors to oppose Umhala in joining in the war of 1851; nevertheless many of his people took an active part in it, and Qasana, *alias* Umfundisi, nephew to Umhala, and half brother to Siwani and Siyolo, left the Hlambi district, and joined the Gaikas in the Amatola. Umhala received the Gaikas into his location during this war, with their own cattle, as well as those they had captured from the colony. Sir Harry Smith in consequence caused him to pay a fine of one thousand head of cattle.

Umhala is a shrewd man, and very crafty. His age is about 58.

UMKAI.

The late Chief Umkai was the great son of Hlambi, and, with the exception of Kama, is the only Chief who had never been in arms against the Colony. In the war of 1835 he left his brother Umhala, and joined Pato and Kama. In the war of 1846, he went for protection into the Colony with a few followers, having previously given repeated warnings to the Government of the impending outbreak. The result was that most of his people deserted him, and acknowledged Umhala as their Chief. During the war of 1851, Umkai rendered important service to us in conveying slaughter cattle from Fort Peddie to King William's Town. Though Umkai had lost his people and influence by his unwavering adherence to us, no distinction was made between him and the other Chiefs, and there was no attempt to recompense his faithfulness, until an annual subsidy was granted to him with other Chiefs of the Hlambi District, for services rendered during the war of 1851 and 1852. Umkai was of an amiable disposition, but his mental powers were not of first rate repute among the Kafirs. At his death he was aged about 56, and his tribe is now directed between his sons Jali and Tabai, two well disposed young Chiefs. Umkai received a subsidy of £40 per annum.

SIWANI.

Siwani, the great son of Dushane, the son of Hlambi, aged about 28, is an intellectual and intelligent Chief. He took an active part in the war of 1846, but was faithful to

Government in the last war, and rendered good service in the conveyance of Mails between King William's Town and Fort Peddie, when communication was otherwise cut off with the Colony. Siwani has, since 1846, conducted himself in a satisfactory manner, but in the management of the tribe has met with much opposition from Siyolo, an elder brother, by an inferior wife, who attained an ascendancy in the tribe, having had the chief control during the minority of his brother, which it has been his aim to maintain in opposition to his superior Chief Siwani. Siwani receives a subsidy of £60 per annum.

SIYOLO.

Siyolo, second son of Dushane by birth, aged about 42, is a turbulent and ambitious man. He has a superior mind, and is popular in the Imidushane tribe. That he might maintain the position in which he was placed by the death of Dushane, during Siwani's minority, Siyolo attached himself to the Gaikas, in order to secure their support. This may in some measure account for his joining the war party, in violation of his pledge to Sir Harry Smith, that he would remain at peace, and protect the post at Line Drift. Besides his own immediate adherents, he induced some of Siwani's people to join him in the war; but before its close, Siwani's people having returned to their Chief, and many of Siyolo's being about to leave him, Siyolo surrendered himself to the Chief Commissioner, and is now in confinement at Wynberg.

TOYISE.

Toyise, aged about 34, son of Gasela, and grandson of Nukwa, who is still alive, was in arms against us in 1846,

but during the last war had to leave his location, in consequence of his adherence to the British Government.

Toyise's old location forms a part of the present Gaika District, and Toyise is now located in a portion of the late Gaika country. Whenever Toyise visits the Posts, he is neatly dressed in the English style. He is a volatile man, and does not possess the dignity natural to Kafir Chiefs. Toyise receives a subsidy of £60 per annum.

SANDILI.

Sandili, the successor of Gaika, is aged 33. He is naturally not an evil disposed man, but has not sufficient resolution and strength of mind to resist the evil influence of bad advisers. He is exceedingly sensual, and has a number of associates about his own age, who have great power over him; these were his chief instigators to pursue the course which brought on the war of 1851 and 1852. Nika, a favourite of Sandili, who fled to him for protection, to escape punishment for a murder committed by Nika in Eno's tribe, was the first to fire on the troops in the Boomah Pass, after Sandili had been taken from the place by the old councillors Umcoyana and Baba, to prevent collision with the troops. Sandili is remarkably timid and suspicious; from want of courage, and in consequence of lameness, he has never taken part in any engagement with the troops. His mental capacity is hardly above mediocrity. He has therefore not attained to that influence over the other chiefs of the tribe, which his birthright, as paramount Chief of the Gaikas, entitles him to.

MAKOMA.

Makoma, first born of Gaika, is about 56 years old. He is by all allowed to be the greatest politician and best warrior in Kaffraria. For nine or ten years after the death of Gaika, and during the minority of Sandili, Makoma was regent, and then had greater influence than Sandili now possesses. This influence he would in a great measure have retained, had he not, after the war of 1835, gone to reside in the neighbourhood of Fort Beaufort, where in a state of intoxication most of his time was passed. He thus spent his property, and lost his authority.

Makoma was opposed to the war of 1846. He expressed his determination of remaining neutral, and was twice sent out of Fort Beaufort by Colonel Hare, as the war was on the point of breaking out. Makoma took no part personally in the war of 1846, but during the last war, he did more mischief than all the other chiefs; and his occupation of the Water Kloof will ever be memorable in the Colony. Since the late peace there has been a great manifestation of jealousy between Sandili and Makoma, particularly on the part of the latter.

OBA.

Oba, *alias* Gonyama, son of Tyali, son of Gaika, is about 24 years of age. He was a minor in the war of 1846; but is said to have distinguished himself in the last war in several engagements with the troops in the Amatola. He is a youth of good judgment, and even at his age, he is greatly respected by his people, and pays great regard to his father's councillors. The tribe of Tyali was last year broken up into

two clans, by the majority of Fynn as son of Tyali by the great wife. Fynn is only 16 years of age, and in disposition is very much like his brother Oba.

ANTA.

Anta, son of Gaika, has a portion of the Gaika tribe under him. He is a haughty man, and not always disposed to yield to his superior Sandili. Anta has a good mind, and is an orator. This, with his noble appearance, has obtained for him an influence to which his birth and rank do not entitle him. Anta is about 42 years of age.

XOXO.

Xoxo, son of Gaika, is a weak-minded man, and is but lightly respected even by those placed immediately under his authority. His age is about 44.

BOTMAN.

Botman, a Chief of the Imidange clan, is about 80 years of age. He still maintains a clear sighted and strong mind. His clan is not large, and owing to its having been formerly on the boundary line, it either was guilty of many thefts from the Colony, or was blamed for stealing cattle which had been taken through it by other Kafirs.

TOLA.

Tola, son of Funo, Chief of another clan of the Imidange, aged about 50, was exceedingly active in the wars of 1846 and 1851. He with the Chief Stock occupied the Fish River Bush, near to Breakfast Vley. Tola was exceedingly trouble-

some before the war of 1846, but since then, there has been nothing against him.

STOCK.

Stock, the son of Eno, Chief of the Amambalu, is at present residing with his brother-in-law Pato. Stock with his brother Sonto took part in the war of 1846, though it is said they had sworn to their father shortly before on his death bed, that they would not fight against the English. Sonto, a man far superior in every way to Stock, died in 1849, and was succeeded by his son Zazini.

The wars of 1835, 1846, and 1851, originated with the Gaikas, who are by far more restless and troublesome than the Hlambis. This may be accounted for in a measure by two reasons, namely, the youth and inexperience of their paramount Chief, and by the fact that the country is filled with families descended from the Royal line, who claim a sort of independency of action to themselves, and who are not punished for offences committed against the Colony. Even at the present time, the Chiefs in the Gaika District, who, according to the laws of the nation, are merely Sandili's deputies, frequently set his authority at defiance, and are endeavouring to establish that independence for themselves, which their progenitors have secured from the Galeka line, and which the Gunukwebis and Hlambis have obtained from the line of Khakhabe.

JAN TZATZOE.

Jan Tzatzoe, aged about 50 years, is Chief of the Aman-tinde clan of the Gaika tribe. As a boy Jan was given by his father to Dr. Van der Kemp, and was taken to Bethelsdorp, where he was taught to read and write. He likewise

learnt the Carpenters' trade, and was finally received, as a member of the Church. About 1827, he returned to his father's tribe, and settled on the spot where the town of King William's Town now stands, the Rev. Mr. Brownlee being Missionary to the tribe. Jan Tzatzoe took no part against the Government in the war of 1835, but after this war, Dr. Philip, agent of the London Society, took Tzatzoe to England, where he was passed off as an important Chief, and encouraged to make statements regarding grievances and oppressions towards his tribe and nation, which grievances did not exist. Jan returned to Kaffraria a changed man. He had learnt to love wine, and to this visit is his ruin to be attributed. Though Jan Tzatzoe's people did not enter the Colony in the war of 1846, they took part in an attack on Fort Peddie, with Jan at their head. He was in consequence cut off from direct Church membership by the Rev. Mr. Brownlee, and has not since sought re-admission. In the war of 1851 and 1852 some of Tzatzoe's people joined the enemy, but he with a portion of the tribe remained at peace, and Tzatzoe became responsible for the high road between Fort Murray and King William's Town. As Sir George Catheart was dissatisfied with his conduct, Tzatzoe was deprived of that part of his location on the right of the Buffalo River, part of which is included in the Royal Reserve, the rest being divided between the Chiefs Toyise and Siwani. Up to the war of 1846, Jan made a consistent profession of Christianity. He built a house for himself in the European style, and planted two orchards, one of which was destroyed in 1836, the other being still to be seen at and around Colonel Somerset's quarters.

VI. QUERIES.

The following questions relative to important subjects having been proposed to the Chief Commissioner in 1855, it has been thought desirable to publish them, together with the answers annexed, which, it must be borne in mind, describe the state of the country previous to the delusion raised by the Kafir impostor Umhlakaza.

Query 1.—Evidence of marriage, Kafir with Fingoes—amongst common people or influential Chiefs ?

Answer. Sandili was to have been married to a daughter of Jokweni; Umhala to a daughter of an influential Fingoe in his own location, and Oba, the successor of the late Tyali, intended to take in marriage the daughter of Mavuso, a Fingoe Chief residing in the vicinity of Alice.

Many private Kafir women, who came among the Fingoes during the war, have been married to them.

Query 2.—Evidence of Kafir and Fingoe alliance, offensive and defensive ?

Answer.—I think matters have not been so far arranged as to form an alliance, offensive and defensive.

Query 3.—Were overtures made to the Fingoes to join the war of 1850 ?

Answer.—I know of none. The Fingoes were cursed by Umlanjeni, and were to perish with the white man. Sandili, however, sent Umbembi, one of his people, to invite Nobanda, an influential Fingoe residing near to Fort Beaufort, to go to Umlanjeni.

Query 4.—Did any Fingoes aid the Kafirs in their wars ?

Answer.—I think not.

Query 5.—Is it supposed that Fingoes carry on trade in Arms and Ammunition ?

Answer.—Before the war of 1850 I think they did ; but since the passing of the Ordinance regulating the sale of Arms and Ammunition, there has been little or no trade in them between Kafirs and Fingoes.

Query 6.—Were Fingoes allowed to retain cattle captured from Colonists and Kafirs ?

Answer.—Generally not.

Query 7.—How have the Fingoes become so enormously enriched in cattle ?

Answer.—The Fingoes have had many cattle for a number of years, chiefly the progeny of what they have earned and purchased from Colonists. During the war of 1850, they purchased many captured cattle at low rates.

Query 8.—Do the Fingoes recognise Moshesh as their Chief, and would they aid him in any war against the whites ?

Answer.—The Fingoes in the Colony do not recognise Moshesh as their Chief; but it is difficult to say what effect may be produced on them, should Moshesh be involved in a war with the whites, as many Fingoes live in Moshesh's country, and the Fingoes in the Colony would doubtless sympathise with their friends and countrymen, acknowledging the Chieftainship of Moshesh.

Query 9.—What is the opinion of the natives of the battle of Berea?

Answer.—Moshesh sent messages to the Kafirs to inform them that he had defeated the troops, and this is universally believed amongst the Kafirs.

Query 10.—What are the feelings and dispositions of the Fingoes towards the Hottentots?

Answer.—Not friendly.

Query 11.—How are the Fingoes supplied with arms and ammunition?

Answer.—Before the war the Fingoes had no difficulty in purchasing arms and ammunition from traders in the Colony; but now I think they find it difficult to supply themselves.

Query 12.—Nature and description of Chapels and Schools? by whom conducted, and upon what principle supported?

Answer. Some substantial buildings, others temporary. The denominations in Kaffraria are the Wesleyans, London Society, Berlin, and the Free Church of Scotland. The

Missions are supported by contributions from England. The natives at all the institutions make contributions towards the funds of the Society.

Query 13.—Do men labour as well as women in agricultural occupation amongst the Kafirs ?

Answer.—Until lately men seldom engaged in agricultural pursuits ; but it is now common to see them tilling the ground.

Query 14.—Extent of land under cultivation ?

Answer.—In the Gaika District there may be about 8,000, or 10,000 acres under cultivation : In the Hlambi District perhaps double that number of acres.

Query 15.—Loss of stock by disease ?

Answer.—Hitherto not many cattle have died in the Gaika District.

Query 16.—Do the Fingoe Chiefs recollect the nature of the treaty made with them by Sir B. D'Urban and Sir A. Stockenstrom ?

Answer.—They cannot have forgotten it.

Query 17.—Population of the Hlambis, Gaikas, &c., and number of warriors ?

Do. Galekas ?

Do. Tambookies ?

Do. Fingoes ?

Answer.—See Census and Memorandum annexed.

Query 18.—What cause of complaint have the Fingoes against the Government or other authorities ?

Answer. The location of white men in the midst of their settlements, and on land which they have tilled for years.

Query 19.—Have they ample territory for grazing ?

Answer.—They had not previous to the war of 1850. I do not know how the case now is.

Query 20.—Do they desire to settle alone, or intermix with the white population ?

Answer.—They prefer having separate and distinct locations, as a general thing, though there may be exceptions with regard to individual white men.

Query 21.—Cause of recent alarm and rumour of war ?

Answer.—Jokweni's proposal to come into Kafirland, and Sandili's overtures of marriage, were viewed with suspicion and alarm in the Colony. White people dreaded and expected an outbreak. A party of Gaikas ordered two farmers off their farm ; this led to the report that Anta with his followers had entered the Amatola, and which caused the panic on the Frontier.

Query 22.—Is the country the Fingoes occupy such as they would themselves have selected ?

Answer.—I think so ; the country now occupied by the Fingoes is good.

Query 23.—Do they feel an interest in the country, and are they willing to defend it? or would they like a country of their own beyond the Kei?

Answer.—They would generally prefer to live where they are. In the wars of 1846 and 1850 they fought against the Kafirs, and under proper management most of them would do so again.

Query 24.—What is their Government (Kafirs also)?

Answer.—An hereditary Chieftainship.

Query 25. - How are the people ruled?

Answer.—By the Chief through his Councillors.

Query 26. - How are the lands invested?

Answer.—The boundaries of each tribe are defined; and to individuals, land is secured simply as long as they occupy it.

Query 27.—Is the power of the Chief despotic?

Answer.—A Chief may act despotically, but he more generally acts with the advice and concurrence of his Council, though not always according to law.

Query 28.—Can he exercise authority independent of his Council?

Answer.—This is often done; but it is not in accordance with the established law and usages, and is frequently a source of dissatisfaction. A Chief is in a great measure compelled to act through his Councillors, otherwise his authority may be resisted.

Query 29.—How are cases adjudicated ?

Answer.—By a public hearing before the Chief and his Councillors, a private consultation generally preceding the sentence.

Query 30.—How are the villages governed ?

Answer.—By the head man of the village.

Query 31.—How are the Chiefs maintained ?

Answer.—Almost entirely through confiscated cattle ; a few cattle are also occasionally given by the free will of individuals.

Query 32.—How is the governing principle distributed throughout the tribe, so as to bring every individual beneath its influence ?

Answer.—The country of each Chief is divided into Districts under his principal Councillors ; these Districts are again sub-divided under inferior Councillors, who may have from two to six or eight kraals under their supervision. Cases occurring between individuals of any kraal are generally settled by the head man, and if not settled by him, they are taken to the inferior Councillors, then to the head of the District, and finally to the Chief ; but there is nothing to prevent the parties from bringing the case before the Chief in the first instance. Though the Councillors may decide a case, they are not empowered to enforce their decision, should either of the litigants be dissatisfied with the sentence.

Query 33.—How is theft punished ?

Answer.—The law is, a restitution of ten for one ; but it is seldom enforced, except the theft is from an influential man. Theft from a Chief is punished by the confiscation of all the thief's property, or, if he has none, by the confiscation of the property of his relatives, or of the head man of the kraal to which the thief belongs.

Query 34.—How is murder punished, and do such cases occur between subjects of a tribe ?

Answer.—Murder is punished by fine, which is often not heavier than a fine for theft, and in rare cases it is punished by death. The relatives of a murdered man may murder the murderer. They become, however, liable for a very light fine, particularly if the murderer has been fined for his crime. Murder sometimes occurs between subjects of the same tribe, but among the Kafirs it is of rare occurrence. The amount of punishment for this crime is, as in theft, decided according to the rank or station of the deceased.

Query 35.—Have the Kafirs, apart from Missionary instruction, any idea of a supreme Being ?

Answer.—Apart from Missionary instruction they have very vague and indefinite ideas of a supreme Being, and very confused notions of a future state ; but that they recognise the immortality of the soul is evident from the fact that they believe in a supernatural or spiritual agency, having an influence over the affairs of this life, such as health and sickness, prosperity and adversity, and to conciliate these overruling spirits they frequently sacrifice cattle to them. These spirits are supposed to be those of their ancestors.

Query 36.—Have they any tradition of their origin, or from whence they came, and are they the remains of a conquered and dispersed tribe ?

Answer.—It is not known ; but for many generations they have lived in security from the aggressions of other tribes. I think the Kafirs are an off-shoot from the North-eastern tribes, and that a small tribe under their Chief Xosa migrated westward to the country they now occupy, though of this there exists even no tradition.

Query 37.—What is the extent of the unoccupied country across the Kei ?

Answer.—I do not know.

Query 38.—Fertility of the Amatolas ?

Answer.—The whole of the country commonly called the Amatolas is particularly fertile.

Query 39.—Is it adapted for Military Colonies ?

Answer.—The difficulty of forming Military or other Colonies in the Amatolas, arises from the great extent of Forest therein, which will necessarily break up and separate the various locations ; but a better country could not be found for cultivation, having a rich soil with an abundance of water.

CENSUS

OF THE

GAIKA DISTRICT, 1848.

NAME.	MEN.	WIVES.	Unmarried		Children.		WIDOWS	Orphans.		NUMBER OF SOULS.	PERSONS IN THE COLONY.	Property.	
			FEMALES.	BOYS	GIRLS.	BOYS.		GIRLS.	HORSES.			CATTLE.	
Sandili . . .	3,264	3,057	581	2,886	2,863	1,070	599	595	14,915	681	629	10,583	
Tebe	939	947	348	1,0 2	879	281	270	191	4,867	237	302	4,559	
Makoma. . .	429	413	106	419	354	149	102	94	2,066	268	179	2,034	
Botman. . . .	320	298	78	301	232	108	57	61	1,455	212	61	1,194	
Tola.	406	311	52	277	226	120	48	47	1,487	152	63	1,276	
Sonto	170	122	22	122	101	60	34	41	672	48	46	584	
Tzatsoe . . .	356	320	76	366	267	141	89	102	1,717	53	108	1,960	
Total	5,884	5,468	1,263	5,383	4,922	1,929	1,199	1,131	27,179	1,651	1,388	22,190	

CENSUS

OF THE

HLAMBI DISTRICT, 1848.

LOCATIONS.	NUMBER OF KRAALS.	Unmarried		Children.		WIDOWS.	Orphans.		NUMBER OF SOULS.	Property.	
		WIVES.	FEMALES.	BOYS.	GIRLS.		BOYS.	GIRLS.		HORSES.	CATTLE.
Umhala's	570	2,059	158	2,383	2,104	614	275	336	10,018	164	8,244
Pato & Kobi	581	1,848	97	1,989	1,909	408	191	246	8,527	140	7,336
Toyise's	387	1,600	69	1,682	1,620	434	202	226	7,481	457	11,648
Siwani's	160	591	85	579	579	181	84	81	2,773	67	2,596
Siyolo's	122	487	41	443	433	141	66	69	2,161	67	1,833
Stock's	152	746	173	669	590	223	136	110	3,342	258	3,479
Tabai's	47	191	22	180	191	56	27	27	877	14	840
Total	2,079	7,522	645	7,988	7,431	2,057	981	1,095	35,179	1,167	35,976

The census of 1848 was as accurately taken as circumstances permitted so soon after hostilities; but the following is, I think, a more correct estimate, viz. :—

Hlambi and Gaika Tribes	...	...	70,000
'Tambookies	...	...	70,000
Khili's or Amagcaleka Tribe	...	...	70,000
		Total	<u>210,000</u>

Number of Warriors estimated at 35,000.

VII. NATIVE LAW RELATIVE TO LAND.

According to Kafir law all lands are held by the Chief, no man having a right to alienate or sell any piece of land, and no individual having an exclusive right to any spot as grazing ground.

Any person leaving a kraal at which he has cultivated, may by law, even after a series of years, recover from any one who has taken possession of the kraal and arable land formerly used by him, but obtains no right to such grounds as have been broken up and brought under cultivation by the last occupier.

A Chief may eject a private man from his kraal, and take possession of his standing crops or granaries, or he may eject a man of his own tribe, for a Chief of another tribe, though ejection in either way is seldom resorted to. But it is against law to eject one private individual for another, except as above stated, it being in consideration of pre-occupation.

In former times the Chief received a sort of tribute from the produce of the land, and occasionally cattle were given. The custom has now fallen almost entirely into disuse, and the people satisfy themselves with presenting these things to the Chiefs when they visit their kraals and neighbourhood.

Up to within the last ten or twelve years, Fingoes were very arbitrarily deprived of their property and gardens ; but now their rights are generally acknowledged and respected.

While Kaffraria was but thinly populated, changes of residence, from various causes were common ; but of late years removals have been less frequent, and in the future may be even more rare.

But even while the country was thinly inhabited, a Kafir never left his home simply for the sake of change, except the change was for the better as regarded cattle and cornfields ; and many kraals, at the breaking out of the war of 1850, had been on the same locality for two or three generations.

When a Chief dies, a new kraal is always made, but it is frequently not more than six or seven hundred yards from the old site, and it may be nearer, if there should be a favourable spot.

On the death of the head man of a kraal, there is seldom a removal, as it is not considered necessary. A new cattle kraal only is made, so that its back occupies the gate of the old one, and all the huts continue to be occupied, with the exception of the one in which the deceased lived. The shifting of kraals becomes necessary, independently of deaths, from the accumulation of dung ; but it is not often that an entire removal takes place, except the old kraal is considered unhealthy, and the cornfields become unproductive, from having for many years been cropped without manure.

Unless Sandili should cause the removal of the Galekas and Hlambis from his location, removes will be rare in the

Gaika District, as each man has, on settling, taken possession of the best piece of unoccupied land he could find. Removals will therefore not in any way better the people, who now depend more on cultivation than they did in former years.

A proclamation of His Excellency Sir H. Smith, bearing date, 23rd December, 1847, sets forth the conditions on which the Chiefs and their tribes hold their locations in British Kaffraria, "namely, from and under Her Majesty, by such service, and under such rules and regulations, as Her Majesty's High Commissioner, or other representative, who shall be the great Chief of the whole Territory, shall deem best calculated to promote civilization, &c."

The Gaikas having rebelled in 1850, and being expelled from their country, were settled in their present location, the condition of occupation being given in the proclamation of 2nd March, 1853, which states that "although they cannot be allowed to return to the Amatolas and their other former lands, which have all been forfeited to the Crown, they will, nevertheless, be permitted, under the responsibility of their hereditary Chief Sandili, to live in peace in another portion of British Kaffraria, &c."

The Hlambis still hold their lands under the terms of the proclamation of the 23rd December, 1847, and the Gaikas on the conditions of proclamation by His Excellency Sir George Cathcart, bearing date, 2nd March, 1853.

VIII.—MR. AYLIFF'S REMARKS
ON THE DIFFERENT KINDS OF FOOD
IN USE IN KAFFRARIA.

These consist of Milk, Vegetables, and Meat.

1. Milk.—Before being considered fit for use, milk requires to undergo the process of fermentation; for which purpose it is poured, when new, into leathern bags, and after thickening, it is poured into rush baskets for use, and in this state only it is used by adults, who consider it puerile to drink the new. It forms the chief article of food for all classes, who sometimes for months together use no other. One man only is allowed to touch the milk bag. He acts as steward, and any person touching it in his absence, unless authorised by him to do so, is regarded as guilty of theft. Two reasons may be assigned for this extreme caution: the first is, the dread they entertain of being poisoned, milk being at times used as the medium of administering poison, and an additional guarantee against this is afforded, by the practice of the steward being required to taste of every basket of milk, before any other person partakes of it; while the second is, that a quantity of milk, is always left in the bag to act as leaven to that next poured in, and which thus greatly expedites its fitness for use.

2. Vegetables.—The chief of these is the millet, or Kafir corn, which after harvest is for a short time stacked, and then beaten out, when it is placed for security in air-tight pits in the cattle kraal, or fold, and only taken out in small quantities, as it is required for use or sale.

The pits are formed in the following manner : a circular hole about two feet in diameter is dug to the depth of about one foot ; from the bottom of this, another hole of about half its size is dug, and about one foot deep, or until a firm soil is reached, when it abruptly widens and the real corn pit or “ Isisele ” is formed. The size of this depends upon the probable quantity of corn required to be stored, but it is occasionally as large as six feet deep, and the same in diameter.

On the shelf formed by the second opening, being smaller than the first, a flat stone is placed, which is completely covered with wet clay, and this is again covered with the kraal soil on which the cattle sleep, and then left without any mark to indicate the spot ; but it is surprising to see the unerring accuracy with which a man will determine its presence, and any doubt which may exist on the subject is quickly removed by stamping with the foot on the suspected spot, when the hollow sound emitted decides the case.

During the war, the plan resorted to for determining the case was to force a ramrod down on any suspected spot, until a stone was struck. This was soon dug down to, turned up, and the pit speedily emptied of its contents.

The corn is used either boiled whole, or reduced to flour, and then made into porridge, or into cakes, which are baked in the ashes.

The process of grinding is a very simple one. A large flat stone is placed on the ground, and the corn to be ground is moistened and placed on it, over which a smaller and round stone is rolled, until the corn is reduced to the required state.

When dressed whole, it is simply boiled as we boil rice, and when ready, it is placed in baskets, and set before the men, in the kraal or wherever they may be collected. When sufficiently cool, thick milk is poured over it, and it is then eaten, though they often use it without milk. When they have a large supply, they take two meals of it each day, the one about 10 a.m., and the other about 8 p.m.

The next is the *Umbona*, or Indian corn, which they use when green, by roasting it on the heads, in the embers; and when ripe, it is knocked off the heads, and dressed like the Kafir corn; and they also eat it parched in hot ashes.

Pumpkins also form an important item in their different kinds of food. These they boil either alone, or with corn, and sometimes with meat.

Then Beans, of which they have a small but very productive kind of French bean, though not very extensively cultivated; these they only use when quite ripe, and boil them as they do corn.

The above, with the addition of *Imfe*, or the Native Sugar cane, form in ordinary seasons their usual vegetable diet, while in seasons of unusual scarcity, their chief sustenance is derived from the young roots of the mimosa, which,

when dug up, are heated in hot ashes and eaten, or rather the farinaceous portion which in mastication is extracted. This is largely used when other kinds of food cannot be obtained, and is considered highly nutritious, but its odour is offensive.

Another kind of food, which they are at times compelled by hunger to use, is the *Inqobo* or *Untje*, a small bulb of about the size of a pea, growing in loose soil near to the surface. These they parch in hot ashes, and eat in large quantities. There are also several other edible roots, as the *Igontsi*, the *Ituma*, &c, but they are of a very watery nature, and possess but little nutriment.

3. Meat.—Beef, Goat's flesh, and Game.

It was formerly usual to kill an ox or cow whenever a Kafir received a visitor of rank. This is now rarely done. To kill a goat for an ordinary visitor is supposed to show a sufficient degree of respect, and cattle are now only killed at a wedding feast, when a wife requires a new dress, when new milk bags have to be prepared, or when hunger compels them, as a last resource, to look to their cattle to avert its effects. The heart of a Kafir is wrapt up in his cattle, and he will willingly risk his life to protect them.

When an animal is killed for eating, before it is cut up a fire is kindled inside the cattle kraal, and all who live within sight of the smoke consider themselves invited to partake of the beef.

The feast lasts for three days. On the first day no joints are eaten, but strips of flesh are cut off and roasted on the coals. The *Icongwani*, or sinew of the thigh, the men will not eat, but it is carefully cut out, and sent to the principal

boy at the kraal, who with his companions consider it as their right.

The second is the great day of the feast, when the *Isifuba* or briskets are cooked. The men assemble outside the cattle kraal, and the meat is placed before them upon green boughs, or in baskets.

The third day the sirloins are cooked and eaten ; and on the fourth day the feet and such scraps as are left.

The women do not join in the feast, but portions of the meat are cut off and sent to them.

4. Cultivation commences, if the rains fall early, in August, but ordinarily not until September, when Indian corn and pumpkins are first sown. Kafir corn is sown until the end of October, after which but very scanty crops can be expected. Indian corn can, however, be sown until the end of November.

The green Indian corn is fit for use about the middle of January, but near the coast is sometimes earlier.

The harvest commences in February, and lasts until the end of March, but rarely extends beyond that month, as frosts are then expected.

(Signed) JOHN AYLIFF,
Interpreter to High Commissioner.

IX —ADDENDA.

1. APPENDIX TO REV. H. H. DUGMORE'S PAPERS.

(Continued from p. 56).

6.—CIRCUMCISION.

This national rite, venerable for its extreme antiquity, prevails amongst all the tribes of South Eastern Africa that are connected with the Kafir and Bechuana stocks. Its origin is, however, unknown among them, nor do any traditional remembrances appear to exist with regard to it, beyond that of its prevalence as a national custom from generation to generation. "Our forefathers did so, and therefore we do the same," is all the account the present generation can give of this, and various other observances that have been transmitted from age to age.

As respects the signification of the rite, it is not viewed at all as a religious ceremony. It bears a strictly civil character being the rite by which the youth of the male sex are introduced to the rank and privileges of manhood. So essential is it deemed in this point of view, that a person who had not undergone it would be regarded as but a child, however old he might be. He would not be allowed to inherit; he would find no one that would receive him as a son-in-law; and would be treated with universal scorn and ridicule, as well by the women as by the men.

As the Kafirs keep no records of the age of their children, there is no specified period at which circumcision takes place. The marks of puberty supply the general rule; and as soon as a lad has reached this state, he is eligible for the initiatory rite of manhood. Its performance is hastened or deferred accordingly as his courage is greater or less. Cases are on record of cowardice on the part of youths which has led them to postpone their consent, until, after several years' delay, they have been seized and circumcised by force. Such cases are, however, not very frequent. The idea of ranking with the *men* is generally sufficiently pleasurable to overcome the repugnance of fear at an early period, and youths may sometimes be seen who have thus attained their "majority," while scarcely in appearance more than fourteen or fifteen years of age.

As the youths who have been circumcised form a separate community during the period of their novitiate, and are secluded from general society, it is usual to perform the rite when a number of lads of the requisite age are to be found in one neighbourhood. The commencement of the sowing season is the time for its performance. From that period until the harvest has been gathered in (about six months) is the duration of the novitiate. All this time the *abakweta*, as they are called, inhabit a hut by themselves, built for them in some secluded spot. Here they have a kraal of their own, milking cows being furnished by their fathers, and certain persons appointed to prepare and supply them with whatever other food they require.

The operators in the performance of the rite, in the case of the common people, are some of the old men of the

families to which the lads belong. When, however, the sons of chiefs are to be circumcised, and especially when the rite is to be performed upon the successor of a chief of high rank, great care is taken to select some operator of known skill.

The youths, generally a large number, who are circumcised at the same time as a young chief of rank, become his retinue. The prospective "prime minister" is the first operated upon; the second is the chief himself; the third becomes the councillor second in order at the *umzi wak-womkulu* of his young sovereign. The rest range in subordinate positions according to circumstances.

During the period of their seclusion, the *novices* are distinguished by having their faces and legs smeared with a kind of white clay, and their karosses left undressed with the usual preparation of red ochre. The appearance they present is, accordingly, a most hideous one. They may often be seen standing in a group, and gazing from a distance at passers by, when they look like a company of lepers interdicted from general society. Their appearance in the presence of married women is strictly prohibited, excepting at the *ukuyeyezela*, or dance of their *order*. It is accordingly no uncommon thing to see a party of *abakweta* take instant flight to some hiding place while a woman of that class passes by. No such interdict exists with regard to the unmarried.

The *ukuyeyezela* alluded to above is an amusement peculiar to the period of *abakweta*hood. The youths themselves appear in their dancing dresses at the kraals of their fathers on certain days, and entertain their friends by an

exhibition of their skill. These dresses consist of broad kilts, formed of the young leaves of the palm tree. The leaves are strung together at one end, and bound round the loins. Waving head-dresses are likewise worn, made of the same material. The peculiar movement of the body in the dance keeps the kilts in a swinging motion from side to side, with a strange rustling noise; and the appearance presented by five or six of these exhibitors, with their whitened faces, stooping plumes, and semigratory evolutions is the very perfection of the grotesque. During the dance, the females of the place, collected in a company, stand together at a short distance, beating time with sticks upon a shield, and accompanying it with a sort of chant abounding with licentious allusions.

The termination of the novitiate is a festive ceremony to which great importance is attached. It takes place about harvest time, when there is a supply of fresh corn to make the fermented liquor called *utyalwa*, which is drunk freely on such occasions. The friends and relatives of the young men assemble to give them a formal recognition as having entered the class of *amadoda*. The youths lay aside the *abakweta* costume, and appear for the first time with their heads dressed and their bodies anointed with *imbola* or red ochre. Forming for the last time a separate company, they are lectured by the old men on the duties of their new position. They are directed to lay aside the deportment of "children," and act for the future as "men." Contributions are made by their friends and neighbours to enable them to "set out in life." One presents an assagai, another a brass girdle, a third a head of cattle. The social standing of the

youths is now an entirely new one. The restrictions of boyhood are at an end. They mingle with the men as equals, and are now eligible as husbands, warriors, pleaders, or depredators.

1. FUNERAL RITES.

The treatment of the dying and the dead, amongst the Kafir tribes, indicates a very low state of moral feeling, and forms a very striking contrast to the care and attention bestowed on this mournful subject by other nations far from being in a state of civilisation. The death of a child, especially if young, is a matter which attracts very little notice. Its principal result is the temporary incapacitation of the parents from appearing in the presence of the Chiefs. In the case of adults, the individual, when apparently at the point of death, is taken out of his house to die, and in too many instances is dragged to the edge of some neighbouring thicket, where he expires alone, uncheered by any of the kind offices which tend to alleviate the last sufferings of those who, in happier climes and under brighter auspices, close the mortal scene. As soon as the death is ascertained, the relatives of the deceased break forth in loud and violent lamentations, and the husband, (or wife, as the case may be), casts away his garments and abandons his dwelling. He is now ceremonially unclean, and would incur a legal action were he to enter the dwelling of any other person while the period of his impurity lasts. There does not appear to be any fixed time for this, but it sometimes extends to several days. On its expiration, the bereaved person, his head shaved, and his garments new, is permitted to mingle again with society.

As to the body of the deceased, it was formerly customary in the case of the common people to drag it to some distance, and leave it to be devoured by wild beasts ; the rite of sepulture being an honour appropriated to Chiefs alone. But since the mission of Makana, the "warrior prophet," the Frontier tribes have extended the practice of burial to all, this having formed one subject of his exhortations. A rude grave is accordingly dug at a short distance from the former habitation of the deceased ; the body, wrapped in a mat, is laid in it, and a short address is made to it, the purport of which is, "Thou art gone home ; intercede for us above, that no evil may befall thy relatives that survive." The grave is watched day and night for some time, to prevent the exhumation of the body, this being greatly dreaded, and sometimes practised for avowed deadly purposes.

The funeral of a Chief, especially if he be of rank, is attended with several remarkable ceremonies, and followed by observances which last a considerable time. In the first place, particular persons are fixed upon to bury him ; and these must be sought and found wherever they may be, even though the body in the meantime should be approaching a state of decomposition. The most valuable trinkets, arms, &c., of the Chief are buried with him, a "kraal" is made over the grave, and certain cattle selected which are kept there by those appointed to be watchers. These persons remain on the spot sometimes for a whole year, should the deceased be a "great Chief," during which time they are not allowed to visit any other "kraals," nor to anoint or wash their bodies, nor mingle in any of the customary amusements. When the period is expired, a contribution of cattle

is made for them by the successor of the deceased Chief and the principal councillors; and their persons become sacred, nor can they be legally put to death under any circumstances. The "cattle of the grave," as those are termed which were folded upon it, are never slaughtered: no one may milk them but the watchers; nor can anything what ever be done with the increase of them, until the last of the original cattle has died. The grave itself becomes a sanctuary where any offender may take refuge, with the certainty of safety so long as he remains there.

The death having been formally made known to all the other Chiefs of importance in the country, they shave their heads, and abstain from the use of milk for a certain period. Sometimes it is forbidden that any thing be bought or sold, or removed from the tribe of the deceased Chief, for a whole year.

2. ADDITIONAL NOTES.

INCESTUOUS MARRIAGES.

Marriages are incestuous, where the male and female are of any known or remembered degree of relationship by common descent; but marriages between those connected only by the marriage of relations, are not incestuous. A man, also, may marry two sisters, the first being yet alive and his wife, when he marries the second. And among the Fingoes and upper tribes a man may marry his uncle's widow,* and a *younger* brother his elder brother's widow,

* This particular, though it has been heard of as a fact, is somewhat doubtful, and requires confirmation.

though these things are not held to be right amongst the Amaxosa.

The principles of these rules resemble those somewhat misunderstood ones, on which the Mosaic prohibitions of marriage are founded. They have been founded on Eastern ideas, and interpreted by Western notions.

Politically speaking, the prohibition to breeding in and in, tends much to keep up a bond of union and sympathy between the sub-tribes.

In Tshawe's time, and in that of his immediate successors, these marriages, and those who promoted them by false statements, as well both male and female who committed adultery, were punishable by death.

LAWS AS TO THEFT.

1. If a stranger sleep at a kraal, the head of that Kraal is responsible for all thefts of the stranger's property, cattle or horses.

2. If the spoor of stolen cattle is traced to a Kraal, and one of the cattle be killed, and any persons from the neighbouring Kraals be found partaking of the flesh, those other Kraals are considered guilty, and fined accordingly.

OATHS.

The existence of the name *utixo*, and formerly that of *umdali*, the Creator, and various customs and ejaculatory expressions, now, or till lately, in use, prove the traditional knowledge among the Kafirs of a Supreme Being. Any verbal or ceremonial acknowledgment is, however, a mere matter of form and custom, and probably has been so for several generations back. In accordance with this, they have no

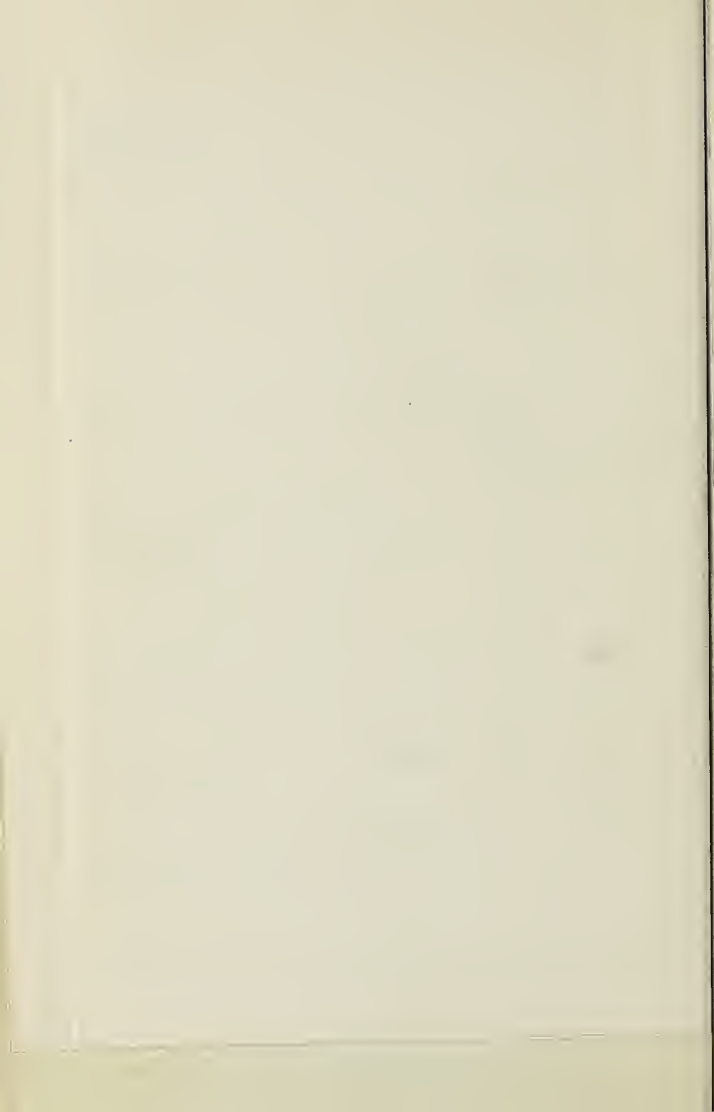
form of oath by which the Supreme Being is called to witness to the truth of their statements. Neither have they any form of cursing. But in accordance with their pride of birth, and veneration for the spirits of the dead, and in accordance with Arab and other Eastern customs, they swear (*funga*) by their ancestors. They take also to witness their Chief, or some great deceased Chief of his line, or sometimes their Chief's great wife, (mother of the succeeding son), or their own father's daughter. The form consists in putting forth the right hand, whence perhaps the name for it, "isandhla sokunene," (*nene* meaning in various dialects either *true* or *great*, or both), and in putting it forth with the fore and middle fingers extended, the thumb and other fingers being kept closed. This latter peculiarity refers, probably, to the sacred number seven, (two *plus* five understood, the first five being naturally counted on the left hand), and this belief has been confirmed by the fact, that in a tribe above Delagoa Bay the name for seven seems to signify the swearing, or swearer, and is of the root *funga*, just as the Hebrew seven appears to be connected with the Hebrew holy.

Unfortunately, however, neither the thought of their ancestors, nor of their Chiefs or sisters, has any effect on the minds of the Kafirs of the present generation. They acknowledge that they will lie as readily after their adjuration, as before taking it; and the causing a Kafir, therefore, in a court of Justice, to *funga*, would be a worse than useless waste of time and words.

GENEALOGY OF THE KAFIR CHIEFS.

1858.

	Present Chief and Chieftains.	Nations, tribes and sub-tribes.
Abatembu.		
..... Great Wife NONESI (regent)		
..... QEYA (minor)		ABATEMBU
Zwidi, Umbulali, Injanya, Malandela, Umguti, <i>Tembu</i> , Bomoi, Ceduni Tooi, Xekwa, Dunakazi, Hala, Nadibi, Tato, Zona, Vusani, Gubencuka, Untirara	JOYI (regent)	
Amampondumisi.		
..... Zangwa, Cira, Cwini, <i>Pondumisi</i> , Majola, Sabe, Umte, Qemgebe, Gewanya, Pahlo, Umgabisi, Umxambi, Umyeki	UMBALI	AMAMPONDUMISI
..... Velelo, Diko	QIRANA	
Amampondo.		
..... Malangela, <i>Pondo</i> , Kondwana, Cindisi, Cabe, Bala, Cilwayo, Dayeni, Talli, Nyanza, Qunqushe	FAKU	AMAMPONDO
..... Qiya, Ceme, Puta, Matai, Makalo, Pahlo, Hala	Qanda	
..... Biba, Sanqo, Depa { Sons by a } Bajela. Getani { white woman }	Majimbane (subtribe)	called Abelungu
Amaxosa.		
..... Xosa, Tshawe, Newangu, Sikomo, Togu, Gconde, Tshiwo, Palo, Gcaleka, Kauta, Hintsa	KHILI	Amagcaleka
	Umtikhatha	
	Bukhu	
..... Velelo	Gxaba	Amavelelo
..... Khakhabe, Umlau, Ngqika	SANDILI	Amangqika
	Maqoma	These and the following tribes being all this side the Kei, are, as a general name, termed Amakhakhabe by the Amagcaleka
	..Tyali	Fini
	Ntimbo d.s.p.	Oba
	Hanta	
	Cebo Dushane d.s.p. given as representative of Cebo	SIWANI
	..... Fundisi, <i>alias</i> Qasana	Imidushane
	..... Seyolo	Bangi
	Dhlambe	UMHALA
	..... Umqai	JALI
	..... Tabai	
	Nukwa, Gasela	CANCA (minor)
	..... Toyise (regent)	
..... Ulunga, Nqeno	STOCKWE	Amambalu <i>alias</i> Amalanga
	..... Sonto	
..... Gwali, Titi, Kobela, Mhade	Zweni	Amagwali
	..... Hlani	
..... Umdange, Mahote, Funo, Ceya	MADOLO	Imidange
	..... Tola (lately regent)	
	..... Mankla	Botman
..... Tinde, Getani, Bange, Cika, Tshatshu	JAN TSHATSHU	Amantinde
Gqunukwebi, Sishude, Untibana, Lungana, Tebe, <i>Kwane</i> , Tyakha, Tshaka, Cungwa	PATO	Amagqunukwebi <i>alias</i> Amakwane
(Kwane first Chief, Councillor of Tshiwo)	..... Kama	
	..... Kobi	



X.—GENEALOGICAL TABLE OF KAFIR CHIEFS.

NOTES BY B. NICHOLSON, M.D.

SURGEON, 9th REGT.

Note 1. The original tree was obtained twenty-five years ago from two very old people among the Amampondo or neighbouring tribes by the Rev. W. Shepstone, and the later portions have been collated from various sources, which, with the exception of occasional transposition of names, are consistent with each other. The earlier descent of the Chiefs is now, however, forgotten.

Note 2. Except on the occasional rise of such persons as Chaka, Kafir wars are not very sanguinary, and the lives of great Chiefs are generally respected. Naturally also they live to a good old age ; whilst their successors are among the youngest of their sons, and not very unfrequently minors. Hence the usual reckoning of thirty years to a generation is in this case too small ; and I should be inclined to extend it to forty years. Thus, Amaxosa tradition gives the time of Togu, seven and a half generations ago, as that of their arrival on the Kei, and this reckoning, at thirty years for a generation, gives the date (30 by 8) 1617, but the probability is, that they had reached that point of their migratory course at a somewhat earlier period.

Note 3. The Pondumisi (whose ancestor of that name does not appear in the original tree, but is interpolated from the genealogy given by Qirana) now disclaim all connection with the Pondos or other tribes, and state that they have lived on the soil from age to age, but that several generations ago the Tembus and Xosas passed from above, round and to the right of them and the Pondos, to their present position, this latter part thus agreeing with the Xosa tradition noticed in the preceding note.

Note 4. Tradition, also, at least among the Xosas, points to the North East as the direction whence they came, and the tradition of other tribes than the Xosas and Tembus speak of their origin from, or from among, the Uhlanga. This word is generally translated cave, but in the upper country (Natal, &c.) the word also signifies reed, and is so understood by at least some among them when speaking on this subject. The country between Natal and Delagoa Bay, &c., is said to be marshy, but it appears too near in distance from the Natal tribes, and too near in point of time to the Xosas, to have given origin to a tradition so vague, that it probably refers to remoter times. I am the more inclined to this view, as the dialects of the mountain and ruder tribes near the Souaheli, whose language has not like the Souaheli been corrupted by Arab and other intercourse and admixture, strongly resembles that of these tribes, i.e. they show not only a common origin but a strong affinity as dialects. One of the Hebrew names of the Red Sea, I may add, is the Sea of Sedges.

Note 5. Umhala is a usurping son of Hlambi, and not being the true heir, nor elected *consensu majorum*, he

cannot legally exercise all the prerogatives of a Chief: thus he cannot decide a dispute between Chiefs. The son of the rightful heir is still living among the tribe.

Madolo's ancestor Mahote supplanted his father's great son Nqema, whose descendants (Marule,—Yekwa,—Kuse,—Vena) now live under Sandili. Botman, also, the youngest of five brothers by the same mother, was chosen, with the consent of the Chief, in place of the eldest, (the great son of the Right hand house of Mahote), who was deposed for some improper conduct.

Note 6. The Amanqoseni, who with the Amatinde and Imidange are said to have first mixed with the Hottentots this side the Kei, were a small tribe whose Chief was descended from Palo. They are now absorbed in the Imidange.

Note 7. The ancestors of Kwane were not chiefs, and the names of all those above Lungana are exceedingly doubtful. Especially is this the case with Gqunukwebi. It seems more probable that this term is a Kafirized form of some tribal name given by the Hottentots, than that it is the name of a person.

N.B. Transpositions are frequently made by Kafirs in enumerating the generations.



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